

ASSEMBLY BILL

No. 339

Introduced by Assembly Member Harman

February 10, 2005

An act to amend Section 17900 of the Business and Professions Code, to amend Sections 1113, 1152, and 1157 of, to add Chapter 1 (commencing with Section 15900) to, and to add and repeal Sections 15534 and 15724 of, the Corporations Code, relating to limited partnerships.

LEGISLATIVE COUNSEL'S DIGEST

AB 339, as introduced, Harman. Limited Partnership Act of 2005.

Existing law sets forth rules of organization and governance for limited partnerships.

This bill would revise and recast these provisions by enacting the Limited Partnership Act of 2005 and would repeal the existing provisions on January 1, 2008. The bill would make other related changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17900 of the Business and Professions
- 2 Code is amended to read:
- 3 17900. (a) As used in this chapter, "fictitious business name"
- 4 means:
- 5 (1) In the case of an individual, a name that does not include
- 6 the surname of the individual or a name that suggests the
- 7 existence of additional owners.

(2) In the case of a partnership or other association of persons, other than a limited partnership that has filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 *or 15902.01* of the Corporations Code, a foreign limited partnership that has filed an application for registration with the Secretary of State pursuant to Section 15692 of the Corporations Code *or an application for certificate of authority pursuant to Section 15909.02 of the Corporations Code*, a registered limited liability partnership that has filed a registration pursuant to Section 15049 or 16953 of the Corporations Code, or a foreign limited liability partnership that has filed an application for registration pursuant to Section 15055 or 16959 of the Corporations Code, a name that does not include the surname of each general partner or a name that suggests the existence of additional owners.

(3) In the case of a corporation, any name other than the corporate name stated in its articles of incorporation.

(4) In the case of a limited partnership that has filed a certificate of limited partnership with the Secretary of State pursuant to Section 15621 *or 15902.01* of the Corporations Code and in the case of a foreign limited partnership that has filed an application for registration with the Secretary of State pursuant to Section 15692 of the Corporations Code *or an application for certificate of authority pursuant to Section 15909.02 of the Corporations Code*, any name other than the name of the limited partnership as on file with the Secretary of State.

(5) In the case of a limited liability company, any name other than the name stated in its articles of organization and in the case of a foreign limited liability company that has filed an application for registration with the Secretary of State pursuant to Section 17451 of the Corporations Code, any name other than the name of the limited liability company as on file with the Secretary of State.

(b) A name that suggests the existence of additional owners within the meaning of subdivision (a) is one which includes such words as “Company,” “& Company,” “& Son,” “& Sons,” “& Associates,” “Brothers,” and the like, but not words that merely describe the business being conducted.

SEC. 2. Section 1113 of the Corporations Code is amended to read:

1113. (a) Any one or more corporations may merge with one or more other business entities (Section 174.5). One or more domestic corporations (Section 167) not organized under this division and one or more foreign corporations (Section 171) may be parties to the merger. Notwithstanding the provisions of this section, the merger of any number of corporations with any number of other business entities may be effected only if:

(1) In a merger in which a domestic corporation not organized under this division or a domestic other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(2) In a merger in which a foreign corporation is a party, it is authorized by the laws under which it is organized to effect the merger.

(3) In a merger in which a foreign other business entity is a party, it is authorized by the laws under which it is organized to effect the merger.

(b) Each corporation and each other party which desires to merge shall approve, and shall be a party to, an agreement of merger. Other persons, including a parent party (Section 1200), may be parties to the agreement of merger. The board of each corporation which desires to merge, and, if required the shareholders, shall approve the agreement of merger. The agreement of merger shall be approved on behalf of each party by those persons required to approve the merger by the laws under which it is organized. The agreement of merger shall state:

(1) The terms and conditions of the merger.

(2) The name and place of incorporation or organization of each party to the merger and the identity of the surviving party.

(3) The amendments, if any, subject to Sections 900 and 907, to the articles of the surviving corporation, if applicable, to be effected by the merger. If any amendment changes the name of the surviving corporation, if applicable, the new name may be, subject to subdivision (b) of Section 201, the same as or similar to the name of a disappearing party to the merger.

(4) The manner of converting the shares of each constituent corporation into shares, interests, or other securities of the surviving party. If any shares of any constituent corporation are not to be converted solely into shares, interests or other securities of the surviving party, the agreement of merger shall state (i) the

1 cash, rights, securities, or other property which the holders of
2 those shares are to receive in exchange for the shares, which
3 cash, rights, securities, or other property may be in addition to or
4 in lieu of shares, interests or other securities of the surviving
5 party, or (ii) that the shares are canceled without consideration.

6 (5) Any other details or provisions required by the laws under
7 which any party to the merger is organized, including, if a public
8 benefit corporation or a religious corporation is a party to the
9 merger, Section 6019.1, or, if a mutual benefit corporation is a
10 party to the merger, Section 8019.1, or, if a consumer
11 cooperative corporation is a party to the merger, Section 12540.1,
12 or, if a domestic limited partnership is a party to the merger,
13 Section 15678.2 *or Section 15911.06*, or, if a domestic
14 partnership is a party to the merger, Section 16911, or, if a
15 domestic limited liability company is a party to the merger,
16 Section 17551.

17 (6) Any other details or provisions as are desired, including,
18 without limitation, a provision for the payment of cash in lieu of
19 fractional shares or for any other arrangement with respect
20 thereto consistent with the provisions of Section 407.

21 (c) Each share of the same class or series of any constituent
22 corporation (other than the cancellation of shares held by a party
23 to the merger or its parent, or a wholly owned subsidiary of
24 either, in another constituent corporation) shall, unless all
25 shareholders of the class or series consent and except as provided
26 in Section 407, be treated equally with respect to any distribution
27 of cash, rights, securities, or other property. Notwithstanding
28 paragraph (4) of subdivision (b), the nonredeemable common
29 shares of a constituent corporation may be converted only into
30 nonredeemable common shares of a surviving corporation or a
31 parent party (Section 1200) or nonredeemable equity securities of
32 a surviving party other than a corporation if another party to the
33 merger or its parent owns, directly or indirectly, prior to the
34 merger shares of that corporation representing more than 50
35 percent of the voting power of that corporation, unless all of the
36 shareholders of the class consent and except as provided in
37 Section 407.

38 (d) Notwithstanding its prior approval, an agreement of
39 merger may be amended prior to the filing of the agreement of
40 merger or the certificate of merger, as is applicable, if the

1 amendment is approved by the board of each constituent
2 corporation and, if the amendment changes any of the principal
3 terms of the agreement, by the outstanding shares (Section 152),
4 if required by Chapter 12 (commencing with Section 1200), in
5 the same manner as the original agreement of merger. If the
6 agreement of merger as so amended and approved is also
7 approved by each of the other parties to the agreement of merger,
8 the agreement of merger as so amended shall then constitute the
9 agreement of merger.

10 (e) The board of a constituent corporation may, in its
11 discretion, abandon a merger, subject to the contractual rights, if
12 any, of third parties, including other parties to the agreement of
13 merger, without further approval by the outstanding shares
14 (Section 152), at any time before the merger is effective.

15 (f) Each constituent corporation shall sign the agreement of
16 merger by its chairperson of the board, president or a vice
17 president and also by its secretary or an assistant secretary acting
18 on behalf of their respective corporations.

19 (g) (1) If the surviving party is a corporation or a foreign
20 corporation, or if a public benefit corporation (Section 5060), a
21 mutual benefit corporation (Section 5059), a religious
22 corporation (Section 5061), or a corporation organized under the
23 Consumer Cooperative Corporation Law (Section 12200) is a
24 party to the merger, after required approvals of the merger by
25 each constituent corporation through approval of the board
26 (Section 151) and any approval of the outstanding shares
27 (Section 152) required by Chapter 12 (commencing with Section
28 1200) and by the other parties to the merger, the surviving party
29 shall file a copy of the agreement of merger with an officers'
30 certificate of each constituent domestic and foreign corporation
31 attached stating the total number of outstanding shares or
32 membership interests of each class entitled to vote on the merger
33 (and identifying any other person or persons whose approval is
34 required), that the agreement of merger in the form attached or its
35 principal terms, as required, were approved by that corporation
36 by a vote of a number of shares or membership interests of each
37 class that equaled or exceeded the vote required, specifying each
38 class entitled to vote and the percentage vote required of each
39 class and, if applicable, by that other person or persons whose
40 approval is required, or that the merger agreement was entitled to

1 be and was approved by the board alone (as provided in Section
2 1201, in the case of corporations subject to that section). If equity
3 securities of a parent party (Section 1200) are to be issued in the
4 merger, the officers' certificate of that controlled party shall state
5 either that no vote of the shareholders of the parent party was
6 required or that the required vote was obtained. In lieu of an
7 officers' certificate, a certificate of merger, on a form prescribed
8 by the Secretary of State, shall be filed for each constituent other
9 business entity. The certificate of merger shall be executed and
10 acknowledged by each domestic constituent limited liability
11 company by all managers of the limited liability company (unless
12 a lesser number is specified in its articles or organization or
13 operating agreement) and by each domestic constituent limited
14 partnership by all general partners (unless a lesser number is
15 provided in its certificate of limited partnership or partnership
16 agreement) and by each domestic constituent general partnership
17 by two partners (unless a lesser number is provided in its
18 partnership agreement) and by each foreign constituent limited
19 liability company by one or more managers and by each foreign
20 constituent general partnership or foreign constituent limited
21 partnership by one or more general partners, and by each
22 constituent reciprocal insurer by the chairperson of the board,
23 president, or vice president, and by the secretary or assistant
24 secretary, or, if a constituent reciprocal insurer has not appointed
25 those officers, by the chairperson of the board, president, or vice
26 president, and by the secretary or assistant secretary of the
27 constituent reciprocal insurer's attorney-in-fact, and by each
28 other party to the merger by those persons required or authorized
29 to execute the certificate of merger by the laws under which that
30 party is organized, specifying for that party the provision of law
31 or other basis for the authority of the signing persons. The
32 certificate of merger shall set forth, if a vote of the shareholders,
33 members, partners, or other holders of interests of the constituent
34 other business entity was required, a statement setting forth the
35 total number of outstanding interests of each class entitled to vote
36 on the merger and that the agreement of merger in the form
37 attached or its principal terms, as required, were approved by a
38 vote of the number of interests of each class that equaled or
39 exceeded the vote required, specifying each class entitled to vote
40 and the percentage vote required of each class, and any other

1 information required to be set forth under the laws under which
2 the constituent other business entity is organized, including, if a
3 domestic limited partnership is a party to the merger, subdivision
4 (a) of Section 15678.4 *or subdivision (b) of Section 15911.08*, if
5 a domestic partnership is a party to the merger, subdivision (b) of
6 Section 16915, and, if a domestic limited liability company is a
7 party to the merger, subdivision (a) of Section 17552. The
8 certificate of merger for each constituent foreign other business
9 entity, if any, shall also set forth the statutory or other basis under
10 which that foreign other business entity is authorized by the laws
11 under which it is organized to effect the merger. The merger and
12 any amendment of the articles of the surviving corporation, if
13 applicable, contained in the agreement of merger shall be
14 effective upon filing of the agreement of merger with an officer's
15 certificate of each constituent domestic and foreign corporation
16 and a certificate of merger for each constituent other business
17 entity, subject to subdivision (c) of Section 110 and subject to the
18 provisions of subdivision (j), and the several parties thereto shall
19 be one entity. The agreement of merger shall not be filed,
20 however, until there has been filed by or on behalf of each party
21 to the merger taxed under the Bank and Corporation Tax Law,
22 the existence of which is terminated by the merger, the certificate
23 of satisfaction of the Franchise Tax Board that all taxes imposed
24 by that law have been paid or secured. If a domestic reciprocal
25 insurer organized after 1974 to provide medical malpractice
26 insurance is a party to the merger, the agreement of merger or
27 certificate of merger shall not be filed until there has been filed
28 the certificate issued by the Insurance Commissioner approving
29 the merger pursuant to Section 1555 of the Insurance Code. The
30 Secretary of State may certify a copy of the agreement of merger
31 separate from the officers' certificates and certificates of merger
32 attached thereto.

33 (2) If the surviving entity is an other business entity, and no
34 public benefit corporation (Section 5060), mutual benefit
35 corporation (Section 5059), religious corporation (Section 5061),
36 or corporation organized under the Consumer Cooperative
37 Corporation Law (Section 12200) is a party to the merger, after
38 required approvals of the merger by each constituent corporation
39 through approval of the board (Section 151) and any approval of
40 the outstanding shares (Section 152) required by Chapter 12

(commencing with Section 1200) and by the other parties to the merger, the parties to the merger shall file a certificate of merger in the office of, and on a form prescribed by, the Secretary of State. The certificate of merger shall be executed and acknowledged by each constituent domestic and foreign corporation by its chairperson of the board, president or a vice president and also by its secretary or an assistant secretary and by each domestic constituent limited liability company by all managers of the limited liability company (unless a lesser number is specified in its articles of organization or operating agreement) and by each domestic constituent limited partnership by all general partners (unless a lesser number is provided in its certificate of limited partnership or partnership agreement) and by each domestic constituent general partnership by two partners (unless a lesser number is provided in its partnership agreement) and by each foreign constituent limited liability company by one or more managers and by each foreign constituent general partnership or foreign constituent limited partnership by one or more general partners, and by each constituent reciprocal insurer by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary, or, if a constituent reciprocal insurer has not appointed those officers, by the chairperson of the board, president, or vice president, and by the secretary or assistant secretary of the constituent reciprocal insurer's attorney-in-fact. The certificate of merger shall be signed by each other party to the merger by those persons required or authorized to execute the certificate of merger by the laws under which that party is organized, specifying for that party the provision of law or other basis for the authority of the signing persons. The certificate of merger shall set forth all of the following:

(A) The name, place of incorporation or organization, and the Secretary of State's file number, if any, of each party to the merger, separately identifying the disappearing parties and the surviving party.

(B) If the approval of the outstanding shares of a constituent corporation was required by Chapter 12 (commencing with Section 1200), a statement setting forth the total number of outstanding shares of each class entitled to vote on the merger and that the principal terms of the agreement of merger were

approved by a vote of the number of shares of each class entitled to vote and the percentage vote required of each class.

(C) The future effective date or time, not more than 90 days subsequent to the date of filing of the merger, if the merger is not to be effective upon the filing of the certificate of merger with the office of the Secretary of State.

(D) A statement, by each party to the merger which is a domestic corporation not organized under this division, a foreign corporation, or an other business entity, of the statutory or other basis under which that party is authorized by the laws under which it is organized to effect the merger.

(E) Any other information required to be stated in the certificate of merger by the laws under which each party to the merger is organized, including, if a domestic limited liability company is a party to the merger, subdivision (a) of Section 17552, if a domestic partnership is a party to the merger, subdivision (b) of Section 16915, and, if a domestic limited partnership is a party to the merger, subdivision (a) of Section 15678.4 *or subdivision (b) of Section 15911.08*.

(F) Any other details or provisions that may be desired.

Unless a future effective date or time is provided in a certificate of merger, in which event the merger shall be effective at that future effective date or time, a merger shall be effective upon the filing of the certificate of merger in the office of the Secretary of State and the several parties thereto shall be one entity. The certificate of merger shall not be filed, however, until there has been filed by or on behalf of each party to the merger that is taxed under the Bank and Corporation Tax Law, the existence of which is terminated by the merger, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by the Bank and Corporation Tax Law have been paid or secured. The surviving other business entity shall keep a copy of the agreement of merger at its principal place of business which, for purposes of this subdivision, shall be the office referred to in Section 17057 if a domestic limited liability company, at the business address specified in paragraph (5) of subdivision (a) of Section 17552 if a foreign limited liability company, at the office referred to in subdivision (a) of Section 16403 if a domestic general partnership, at the business address specified in subdivision (f) of Section 16911 if a foreign partnership, at the

1 office referred to in subdivision (a) of Section 15614 *or in*
2 *subdivision (a) of Section 15901.14* if a domestic limited
3 partnership, or at the business address specified in paragraph (5)
4 of subdivision (a) of Section 15678.4 *or paragraph (3) of*
5 *subdivision (a) of Section 15909.02* if a foreign limited
6 partnership. Upon the request of a holder of equity securities of a
7 party to the merger, a person with authority to do so on behalf of
8 the surviving other business entity shall promptly deliver to that
9 holder, a copy of the agreement of merger. A waiver by that
10 holder of the rights provided in the foregoing sentence shall be
11 unenforceable. If a domestic reciprocal insurer organized after
12 1974 to provide medical malpractice insurance is a party to the
13 merger the agreement of merger or certificate of merger shall not
14 be filed until there has been filed the certificate issued by the
15 Insurance Commissioner approving the merger in accordance
16 with Section 1555 of the Insurance Code.

17 (h) (1) A copy of an agreement of merger certified on or after
18 the effective date by an official having custody thereof has the
19 same force in evidence as the original and, except as against the
20 state, is conclusive evidence of the performance of all conditions
21 precedent to the merger, the existence on the effective date of the
22 surviving party to the merger and the performance of the
23 conditions necessary to the adoption of any amendment to the
24 articles, if applicable, contained in the agreement of merger.

25 (2) For all purposes for a merger in which the surviving entity
26 is a domestic other business entity and the filing of a certificate
27 of merger is required by paragraph (2) of subdivision (g), a copy
28 of the certificate of merger duly certified by the Secretary of
29 State is conclusive evidence of the merger of the constituent
30 corporations, either by themselves or together with the other
31 parties to the merger, into the surviving other business entity.

32 (i) (1) Upon a merger pursuant to this section, the separate
33 existences of the disappearing parties to the merger cease and the
34 surviving party to the merger shall succeed, without other
35 transfer, to all the rights and property of each of the disappearing
36 parties to the merger and shall be subject to all the debts and
37 liabilities of each in the same manner as if the surviving party to
38 the merger had itself incurred them.

39 (2) All rights of creditors and all liens upon the property of
40 each of the constituent corporations and other parties to the

1 merger shall be preserved unimpaired, provided that those liens
2 upon property of a disappearing party shall be limited to the
3 property affected thereby immediately prior to the time the
4 merger is effective.

5 (3) Any action or proceeding pending by or against any
6 disappearing corporation or disappearing party to the merger may
7 be prosecuted to judgment, which shall bind the surviving party,
8 or the surviving party may be proceeded against or substituted in
9 its place.

10 (4) If a limited partnership or a general partnership is a party
11 to the merger, nothing in this section is intended to affect the
12 liability a general partner of a disappearing limited partnership or
13 general partnership may have in connection with the debts and
14 liabilities of the disappearing limited partnership or general
15 partnership existing prior to the time the merger is effective.

16 (j) (1) The merger of domestic corporations with foreign
17 corporations or foreign other business entities in a merger in
18 which one or more other business entities is a party shall comply
19 with subdivision (a) and this subdivision.

20 (2) If the surviving party is a domestic corporation or domestic
21 other business entity, the merger proceedings with respect to that
22 party and any domestic disappearing corporation shall conform
23 to the provisions of this section. If the surviving party is a foreign
24 corporation or foreign other business entity, then, subject to the
25 requirements of subdivision (c), and of Section 407 and Chapter
26 12 (commencing with Section 1200) and Chapter 13
27 (commencing with Section 1300), and, if applicable,
28 corresponding provisions of the Nonprofit Corporation Law or
29 the Consumer Cooperative Corporation Law, with respect to any
30 domestic constituent corporations, Chapter 13 (commencing with
31 Section 17600) of Title 2.5 with respect to any domestic
32 constituent limited liability companies, Article 6 (commencing
33 with Section 16601) of Chapter 5 of Title 2 with respect to any
34 domestic constituent general partnerships, and Article 7.6
35 (commencing with Section 15679.1) of Chapter 3 of Title 2 with
36 respect to any domestic constituent limited partnerships, the
37 merger proceedings may be in accordance with the laws of the
38 state or place of incorporation or organization of the surviving
39 party.

1 (3) If the surviving party is a domestic corporation or domestic
2 other business entity, the certificate of merger or the agreement
3 of merger with attachments shall be filed as provided in
4 subdivision (g) and thereupon, subject to subdivision (c) of
5 Section 110 or paragraph (2) of subdivision (g), as is applicable,
6 the merger shall be effective as to each domestic constituent
7 corporation and domestic constituent other business entity.

8 (4) If the surviving party is a foreign corporation or foreign
9 other business entity, the merger shall become effective in
10 accordance with the law of the jurisdiction in which the surviving
11 party is organized, but, except as provided in paragraph (5), the
12 merger shall be effective as to any domestic disappearing
13 corporation as of the time of effectiveness in the foreign
14 jurisdiction upon the filing in this state of a copy of the
15 agreement of merger with an officers' certificate of each
16 constituent foreign and domestic corporation and a certificate of
17 merger of each constituent other business entity attached, which
18 officers' certificates and certificates of merger shall conform to
19 the requirements of paragraph (1) of subdivision (g). If one or
20 more domestic other business entities is a disappearing party in a
21 merger pursuant to this subdivision in which a foreign other
22 business entity is the surviving entity, a certificate of merger
23 required by the laws under which that domestic other business
24 entity is organized, including subdivision (a) of Section 15678.4,
25 subdivision (b) of Section 16915, or subdivision (a) of Section
26 17552, as is applicable, shall also be filed at the same time as the
27 filing of the agreement of merger.

28 (5) If the date of the filing in this state pursuant to this
29 subdivision is more than six months after the time of the
30 effectiveness in the foreign jurisdiction, or if the powers of a
31 domestic disappearing corporation are suspended at the time of
32 effectiveness in the foreign jurisdiction, the merger shall be
33 effective as to the domestic disappearing corporation as of the
34 date of filing in this state.

35 (6) In a merger described in paragraph (3) or (4), each foreign
36 disappearing corporation that is qualified for the transaction of
37 intrastate business shall by virtue of the filing pursuant to this
38 subdivision, subject to subdivision (c) of Section 110,
39 automatically surrender its right to transact intrastate business in
40 this state. The filing of the agreement of merger or certificate of

1 merger, as is applicable, pursuant to this subdivision, by a
2 disappearing foreign other business entity registered for the
3 transaction of intrastate business in this state shall, by virtue of
4 that filing, subject to subdivision (c) of Section 110,
5 automatically cancels the registration for that foreign other
6 business entity, without the necessity of the filing of a certificate
7 of cancellation.

8 (7) A certificate of satisfaction of the Franchise Tax Board for
9 each disappearing party to the merger shall be filed when
10 required by subdivision (g) or when required by Section 23334 of
11 the Revenue and Taxation Code.

12 SEC. 3. Section 1152 of the Corporations Code is amended to
13 read:

14 1152. (a) A corporation that desires to convert to a domestic
15 other business entity shall approve a plan of conversion. The plan
16 of conversion shall state all of the following:

17 (1) The terms and conditions of the conversion.

18 (2) The jurisdiction of the organization of the converted entity
19 and of the converting corporation and the name of the converted
20 entity after conversion.

21 (3) The manner of converting the shares of each of the
22 shareholders of the converting corporation into securities of, or
23 interests in, the converted entity.

24 (4) The provisions of the governing documents for the
25 converted entity, including the partnership agreement or limited
26 liability company articles of organization and operating
27 agreement, to which the holders of interests in the converted
28 entity are to be bound.

29 (5) Any other details or provisions that are required by the
30 laws under which the converted entity is organized, or that are
31 desired by the converting corporation.

32 (b) The plan of conversion shall be approved by the board of
33 the converting corporation (Section 151), and the principal terms
34 of the plan of the conversion shall be approved by the
35 outstanding shares (Section 152) of each class of the converting
36 corporation. The approval of the outstanding shares may be given
37 before or after approval by the board. Notwithstanding the
38 foregoing, if a converting corporation is a close corporation, the
39 conversion shall be approved by the affirmative vote of at least
40 two-thirds of each class of outstanding shares of that converting

1 corporation; provided, however, that the articles may provide for
2 a lesser vote, but not less than a majority of the outstanding
3 shares of each class.

4 (c) If the corporation is converting into a general or limited
5 partnership or into a limited liability company, then in addition to
6 the approval of the shareholders set forth in subdivision (b), the
7 plan of conversion shall be approved by each shareholder who
8 will become a general partner or manager, as applicable, of the
9 converted entity pursuant to the plan of conversion unless the
10 shareholders have dissenters' rights pursuant to Section 1159 and
11 Chapter 13 (commencing with Section 1300).

12 (d) Upon the effectiveness of the conversion, all shareholders
13 of the converting corporation, except those that exercise
14 dissenters' rights as provided in Section 1159 and Chapter 13
15 (commencing with Section 1300), shall be deemed parties to any
16 agreement or agreements constituting the governing documents
17 for the converted entity adopted as part of the plan of conversion,
18 irrespective of whether or not a shareholder has executed the plan
19 of conversion or those governing documents for the converted
20 entity. Any adoption of governing documents made pursuant
21 thereto shall be effective at the effective time or date of the
22 conversion.

23 (e) Notwithstanding its prior approval by the board and the
24 outstanding shares or either of them, a plan of conversion may be
25 amended before the conversion takes effect if the amendment is
26 approved by the board and, if it changes any of the principal
27 terms of the plan of conversion, by the shareholders of the
28 converting corporation in the same manner and to the same
29 extent as was required for approval of the original plan of
30 conversion.

31 (f) A plan of conversion may be abandoned by the board of a
32 converting corporation, or by the shareholders of a converting
33 corporation if the abandonment is approved by the outstanding
34 shares, in each case in the same manner as required for approval
35 of the plan of conversion, subject to the contractual rights of third
36 parties, at any time before the conversion is effective.

37 (g) The converted entity shall keep the plan of conversion at
38 (1) the principal place of business of the converted entity if the
39 converted entity is a domestic partnership or (2) at the office at
40 which records are to be kept under Section 15614 *or Section*

1 15901.11 if the converted entity is a domestic limited partnership
2 or at the office at which records are to be kept under Section
3 17057 if the converted entity is a domestic limited liability
4 company. Upon the request of a shareholder of a converting
5 corporation, the authorized person on behalf of the converted
6 entity shall promptly deliver to the shareholder, at the expense of
7 the converted entity, a copy of the plan of conversion. A waiver
8 by a shareholder of the rights provided in this subdivision shall
9 be unenforceable.

10 SEC. 4. Section 1157 of the Corporations Code is amended to
11 read:

12 1157. (a) An other business entity or a foreign other business
13 entity or a foreign corporation may be converted into a
14 corporation pursuant to this chapter only if the converting entity
15 is authorized by the laws under which it is organized to effect the
16 conversion.

17 (b) An other business entity or a foreign other business entity
18 or a foreign corporation that desires to convert into a corporation
19 shall approve a plan of conversion or other instrument as is
20 required to be approved to effect the conversion pursuant to the
21 laws under which that entity is organized.

22 (c) The conversion of an other business entity or a foreign
23 other business entity or a foreign corporation shall be approved
24 by the number or percentage of the partners, members,
25 shareholders, or other holders of interest of the converting entity
26 that is required by the laws under which that entity is organized,
27 or a greater or lesser percentage as may be set forth in the
28 converting entity's partnership agreement, articles of
29 organization, operating agreement, articles of incorporation or
30 other governing document in accordance with applicable laws.

31 (d) The conversion by an other business entity or a foreign
32 other business entity or a foreign corporation shall be effective
33 under this chapter upon the filing with the Secretary of State of
34 the articles of incorporation of the converted corporation,
35 containing a statement of conversion that complies with
36 subdivision (e).

37 (e) A statement of conversion of an entity converting into a
38 corporation pursuant to this chapter shall set forth all of the
39 following:

1 (1) The name, form, and jurisdiction of organization of the
2 converting entity.

3 (2) The Secretary of State's file number, if any, of the
4 converting entity.

5 (3) If the converting entity is a foreign other business entity or
6 a foreign corporation, the statement of conversion shall contain
7 the following:

8 (A) A statement that the converting entity is authorized to
9 effect the conversion by the laws under which it is organized.

10 (B) A statement that the converting entity has approved a plan
11 of conversion or other instrument as is required to be approved to
12 effect the conversion pursuant to the laws under which the
13 converting entity is organized.

14 (C) A statement that the conversion has been approved by the
15 number or percentage of the partners, members, shareholders, or
16 other holders of interest of the converting entity that is required
17 by the laws under which that entity is organized, or a greater or
18 lesser percentage as may be set forth in the converting entity's
19 partnership agreement, articles of organization, operating
20 agreement, articles of incorporation, or other governing
21 document in accordance with applicable laws.

22 (f) The filing with the Secretary of State of articles of
23 incorporation containing a statement pursuant to subdivision (e)
24 shall have the effect of the filing of a certificate of cancellation
25 by a converting foreign limited liability company or foreign
26 limited partnership, and no converting foreign limited liability
27 company or foreign limited partnership that has made the filing is
28 required to file a certificate of cancellation under Section 15696,
29 *Section 15909.06*, or 17455 as a result of that conversion. If a
30 converting entity is a foreign corporation qualified to transact
31 business in this state, the foreign corporation shall, by virtue of
32 the filing, automatically surrender its right to transact intrastate
33 business.

34 SEC. 5. Section 15534 is added to the Corporations Code, to
35 read:

36 15534. This chapter shall be repealed on January 1, 2008.

37 SEC. 6. Section 15724 is added to the Corporations Code, to
38 read:

39 15724. This chapter shall be repealed on January 1, 2008.

1 SEC. 7. Chapter 1 (commencing with Section 15900) is added
2 to Title 2 of the Corporations Code, to read:

3
4 CHAPTER 1. UNIFORM LIMITED PARTNERSHIP ACT OF 2005

5
6 Article 1. General Provisions

7
8 15900. This chapter may be cited as the Uniform Limited
9 Partnership Act of 2005.

10 15901.02. In this chapter, the following terms have the
11 following meanings:

12 (a) “Certificate of limited partnership” means the certificate
13 required by Section 15902.01. The term includes the certificate
14 as amended or restated.

15 (b) “Contribution,” except in the phrase “right of
16 contribution,” means any benefit provided by a person to a
17 limited partnership in order to become a partner or in the
18 person’s capacity as a partner.

19 (c) “Debtor in bankruptcy” means a person that is the subject
20 of:

21 (1) an order for relief under Title 11 of the United States Code
22 or a comparable order under a successor statute of general
23 application; or

24 (2) a comparable order under federal, state, or foreign law
25 governing insolvency.

26 (d) “Designated office” means:

27 (1) with respect to a limited partnership, the office that the
28 limited partnership is required to designate and maintain under
29 Section 15901.14; and

30 (2) with respect to a foreign limited partnership, its principal
31 office.

32 (e) “Distribution” means a transfer of money or other property
33 from a limited partnership to a partner in the partner’s capacity as
34 a partner or to a transferee on account of a transferable interest
35 owned by the transferee.

36 (f) “Foreign limited liability limited partnership” means a
37 foreign limited partnership whose general partners have limited
38 liability for the obligations of the foreign limited partnership
39 under a provision similar to subdivision (c) of Section 15904.04.

(g) “Foreign limited partnership” means a partnership formed under the laws of a jurisdiction other than this state and required by those laws to have one or more general partners and one or more limited partners. The term includes a foreign limited liability limited partnership.

(h) “General partner” means:

(1) with respect to a limited partnership, a person that:

(A) becomes a general partner under Section 15904.01; or

(B) was a general partner in a limited partnership when the limited partnership became subject to this chapter under subdivisions (a) or (b) of Section 15912.06; and

(2) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

(i) “Limited liability limited partnership,” except in the phrase “foreign limited liability limited partnership,” means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

(j) “Limited partner” means:

(1) with respect to a limited partnership, a person that:

(A) becomes a limited partner under Section 15903.01; or

(B) was a limited partner in a limited partnership when the limited partnership became subject to this chapter under subdivisions (a) or (b) of Section 15912.06; and

(2) with respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(k) “Limited partnership,” except in the phrases “foreign limited partnership” and “foreign limited liability limited partnership,” means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by two or more persons or becomes subject to this chapter under Article 11 (commencing with Section 15911.01) or subdivisions (a) or (b) of Section 15912.06. The term includes a limited liability limited partnership.

(l) “Partner” means a limited partner or general partner.

(m) “Partnership agreement” means the partners’ agreement, whether oral, implied, in a record, or in any combination, concerning the limited partnership. The term includes the agreement as amended.

1 (n) “Person” means an individual, corporation, business trust,
2 estate, trust, partnership, limited liability company, association,
3 joint venture, government, governmental subdivision, agency or
4 instrumentality, public corporation, or any other legal or
5 commercial entity.

6 (o) “Person dissociated as a general partner” means a person
7 dissociated as a general partner of a limited partnership.

8 (p) “Principal office” means the office where the principal
9 executive office of a limited partnership or foreign limited
10 partnership is located, whether or not the office is located in this
11 State.

12 (q) “Record” means information that is inscribed on a tangible
13 medium or that is stored in an electronic or other medium and is
14 retrievable in perceivable form.

15 (r) “Required information” means the information that a
16 limited partnership is required to maintain under Section
17 15901.11.

18 (s) “Sign” means:

19 (1) to execute or adopt a tangible symbol with the present
20 intent to authenticate a record; or

21 (2) to attach or logically associate an electronic symbol,
22 sound, or process to or with a record with the present intent to
23 authenticate the record.

24 (t) “State” means a state of the United States, the District of
25 Columbia, Puerto Rico, the United States Virgin Islands, or any
26 territory or insular possession subject to the jurisdiction of the
27 United States.

28 (u) “Transfer” includes an assignment, conveyance, deed, bill
29 of sale, lease, mortgage, creation of a security interest or
30 encumbrance, gift, and transfer by operation of law.

31 (v) “Transferable interest” means a partner’s right to receive
32 distributions.

33 (w) “Transferee” means a person to which all or part of a
34 transferable interest has been transferred, whether or not the
35 transferor is a partner.

36 15901.03. (a) A person knows a fact if the person has actual
37 knowledge of it.

38 (b) A person has notice of a fact if the person:

39 (1) knows of it;

40 (2) has received a notification of it;

1 (3) has reason to know it exists from all of the facts known to
2 the person at the time in question; or

3 (4) has notice of it under subdivision (c) or (d).

4 (c) A certificate of limited partnership on file in the office of
5 the Secretary of State is notice that the partnership is a limited
6 partnership and the persons designated in the certificate as
7 general partners are general partners. Except as otherwise
8 provided in subdivision (d), the certificate is not notice of any
9 other act.

10 (d) A person has notice of:

11 (1) another person's dissociation as a general partner, 90 days
12 after the effective date of an amendment to the certificate of
13 limited partnership which states that the other person has
14 dissociated or 90 days after the effective date of a statement of
15 dissociation pertaining to the other person, whichever occurs
16 first;

17 (2) a limited partnership's dissolution, 90 days after the
18 effective date of an amendment to the certificate of limited
19 partnership stating that the limited partnership is dissolved;

20 (3) a limited partnership's termination, 90 days after the
21 effective date of a statement of termination;

22 (4) a limited partnership's conversion under Article 11
23 (commencing with Section 15911.01), 90 days after the effective
24 date of the articles of conversion; or

25 (5) a merger under Article 11 (commencing with Section
26 15911.01), 90 days after the effective date of the articles of
27 merger.

28 (e) A person notifies or gives a notification to another person
29 by taking steps reasonably required to inform the other person in
30 ordinary course, whether or not the other person learns of it.

31 (f) A person receives a notification when the notification:

32 (1) comes to the person's attention; or

33 (2) is delivered at the person's place of business or at any
34 other place held out by the person as a place for receiving
35 communications.

36 (g) Except as otherwise provided in subdivision (h), a person
37 other than an individual knows, has notice, or receives a
38 notification of a fact for purposes of a particular transaction when
39 the individual conducting the transaction for the person knows,
40 has notice, or receives a notification of the fact, or in any event

1 when the fact would have been brought to the individual's
2 attention if the person had exercised reasonable diligence. A
3 person other than an individual exercises reasonable diligence if
4 it maintains reasonable routines for communicating significant
5 information to the individual conducting the transaction for the
6 person and there is reasonable compliance with the routines.
7 Reasonable diligence does not require an individual acting for the
8 person to communicate information unless the communication is
9 part of the individual's regular duties or the individual has reason
10 to know of the transaction and that the transaction would be
11 materially affected by the information.

12 (h) A general partner's knowledge, notice, or receipt of a
13 notification of a fact relating to the limited partnership is
14 effective immediately as knowledge of, notice to, or receipt of a
15 notification by the limited partnership, except in the case of a
16 fraud on the limited partnership committed by or with the
17 consent of the general partner. A limited partner's knowledge,
18 notice, or receipt of a notification of a fact relating to the limited
19 partnership is not effective as knowledge of, notice to, or receipt
20 of a notification by the limited partnership.

21 15901.04. (a) A limited partnership is an entity distinct from
22 its partners. A limited partnership is the same entity regardless of
23 an amendment to its certificate which adds or deletes a statement
24 that the limited partnership is a limited liability limited
25 partnership.

26 (b) A limited partnership may be organized under this chapter
27 for any lawful purpose.

28 (c) A limited partnership has a perpetual duration.

29 15901.05. A limited partnership has the powers to do all
30 things necessary or convenient to carry on its activities, including
31 the power to sue, be sued, and defend in its own name and to
32 maintain an action against a partner for harm caused to the
33 limited partnership by a breach of the partnership agreement or
34 violation of a duty to the partnership.

35 15901.06. The law of this state governs relations among the
36 partners of a limited partnership and between the partners and the
37 limited partnership and the liability of partners as partners for an
38 obligation of the limited partnership.

1 15901.07. (a) Unless displaced by particular provisions of
2 this chapter, the principles of law and equity supplement this
3 chapter.

4 (b) If an obligation to pay interest arises under this chapter and
5 the rate is not specified, the rate is that specified in Section 3289
6 of the Civil Code.

7 15901.08. (a) The name of a limited partnership may contain
8 the name of any partner.

9 (b) The name of a limited partnership that is not a limited
10 liability limited partnership must contain the phrase “limited
11 partnership” or the abbreviation “L.P.” or “LP” and may not
12 contain the phrase “limited liability limited partnership” or the
13 abbreviation “LLLP” or “L.L.L.P.”.

14 (c) The name of a limited liability limited partnership must
15 contain the phrase “limited liability limited partnership” or the
16 abbreviation “LLLP” or “L.L.L.P.” and must not contain the
17 abbreviation “L.P.” or “LP.”

18 (d) Unless authorized by subdivision (e), the name of a limited
19 partnership must be distinguishable in the records of the
20 Secretary of State from:

21 (1) the name of each person other than an individual
22 incorporated, organized, or authorized to transact business in this
23 state; and

24 (2) each name reserved under Section 15901.09.

25 (e) A limited partnership may apply to the Secretary of State
26 for authorization to use a name that does not comply with
27 subdivision (d). The Secretary of State shall authorize use of the
28 name applied for if, as to each conflicting name:

29 (1) the present user, registrant, or owner of the conflicting
30 name consents in a signed record to the use and submits an
31 undertaking in a form satisfactory to the Secretary of State to
32 change the conflicting name to a name that complies with
33 subdivision (d) and is distinguishable in the records of the
34 Secretary of State from the name applied for;

35 (2) the applicant delivers to the Secretary of State a certified
36 copy of the final judgment of a court of competent jurisdiction
37 establishing the applicant’s right to use in this state the name
38 applied for; or

1 (3) the applicant delivers to the Secretary of State proof
2 satisfactory to the Secretary of State that the present user,
3 registrant, or owner of the conflicting name:

- 4 (A) has merged into the applicant;
5 (B) has been converted into the applicant; or
6 (C) has transferred substantially all of its assets, including the
7 conflicting name, to the applicant.

8 (f) Subject to Section 15909.05, this Section applies to any
9 foreign limited partnership transacting business in this State,
10 having a certificate of authority to transact business in this State,
11 or applying for a certificate of authority.

12 (g) The name of a limited partnership may not contain the
13 words “bank,” “insurance,” “trust,” “trustee,” “incorporated,”
14 “inc.,” “corporation” or “corp.”.

15 15901.09. (a) The exclusive right to the use of a name that
16 complies with Section 15901.08 may be reserved by:

17 (1) a person intending to organize a limited partnership under
18 this chapter and to adopt the name;

19 (2) a limited partnership or a foreign limited partnership
20 authorized to transact business in this state intending to adopt the
21 name;

22 (3) a foreign limited partnership intending to obtain a
23 certificate of authority to transact business in this state and adopt
24 the name;

25 (4) a person intending to organize a foreign limited partnership
26 and intending to have it obtain a certificate of authority to
27 transact business in this state and adopt the name;

28 (5) a foreign limited partnership formed under the name; or

29 (6) a foreign limited partnership formed under a name that
30 does not comply with subdivisions (b) or (c) of Section
31 15901.08, but the name reserved under this paragraph may differ
32 from the foreign limited partnership’s name only to the extent
33 necessary to comply with subdivisions (b) or (c) of Section
34 15901.08.

35 (b) A person may apply to reserve a name under subdivision
36 (a) by delivering to the Secretary of State an application that
37 states the name to be reserved and the paragraph of subdivision
38 (a) which applies. If the Secretary of State finds that the name is
39 available for use by the applicant, the Secretary of State shall

1 issue a statement of name reservation and thereby reserve the
2 name for the exclusive use of the applicant for a 120 days.

3 (c) An applicant that has reserved a name pursuant to
4 subdivision (b) may reserve the same name for additional
5 120-day periods. A person having a current reservation for a
6 name may not apply for another 120-day period for the same
7 name until 90 days have elapsed in the current reservation.

8 (d) A person that has reserved a name under this Section may
9 transfer the reserved name to another person, effective upon
10 delivery to the Secretary of State of a notice of transfer that states
11 the reserved name, the name and street and mailing address of
12 the person to which the reservation is to be transferred, and the
13 paragraph of subdivision (a) which applies to the other person.

14 15901.10. (a) Except as otherwise provided in subdivision
15 (b), the partnership agreement governs relations among the
16 partners and between the partners and the partnership. To the
17 extent the partnership agreement does not otherwise provide, this
18 chapter governs relations among the partners and between the
19 partners and the partnership.

20 (b) A partnership agreement may not:

21 (1) vary a limited partnership's power under Section 15901.05
22 to sue, be sued, and defend in its own name;

23 (2) vary the law applicable to a limited partnership under
24 Section 15901.06;

25 (3) vary the requirements of Section 15902.04;

26 (4) vary the information required under Section 15901.11 or
27 unreasonably restrict the right to information under Section
28 15903.04 or 15904.07, but the partnership agreement may
29 impose reasonable restrictions on the availability and use of
30 information obtained under those sections and may define
31 appropriate remedies, including liquidated damages, for a breach
32 of any reasonable restriction on use;

33 (5) eliminate the duty of loyalty under Section 15904.08, but
34 the partnership agreement may:

35 (A) identify specific types or categories of activities that do
36 not violate the duty of loyalty, if not manifestly unreasonable;
37 and

38 (B) specify the number or percentage of partners which may
39 authorize or ratify, after full disclosure to all partners of all

1 material facts, a specific act or transaction that otherwise would
2 violate the duty of loyalty;

3 (6) unreasonably reduce the duty of care under subdivision (c)
4 of Section 15904.08;

5 (7) eliminate the obligation of good faith and fair dealing
6 under subdivision (b) of Section 15903.05 and subdivision (d) of
7 Section 15904.08, but the partnership agreement may prescribe
8 the standards by which the performance of the obligation is to be
9 measured, if the standards are not manifestly unreasonable;

10 (8) vary the power of a person to dissociate as a general
11 partner under subdivision (a) of Section 15906.04 except to
12 require that the notice under subdivision (a) of Section 15906.03
13 be in a record;

14 (9) eliminate the power of a court to decree dissolution in the
15 circumstances specified in subdivision (a) of Section 15908.02;

16 (10) vary the requirement to wind up the partnership's
17 business as specified in Section 15908.03;

18 (11) unreasonably restrict the right to maintain an action under
19 Article 10 (commencing with Section 15910.01);

20 (12) restrict the right of a partner under subdivision (a) of
21 Section 15911.10 to approve a conversion or merger or the right
22 of a general partner under subdivision (b) of Section 15911.10 to
23 consent to an amendment to the certificate of limited partnership
24 which deletes a statement that the limited partnership is a limited
25 liability limited partnership;

26 (13) vary the provisions of Article 11.5 (commencing with
27 Section 15911.14), except to the extent expressly permitted by
28 such provisions; or

29 (14) restrict rights under this chapter of a person other than a
30 partner or a transferee.

31 15901.11. A limited partnership shall maintain at its
32 designated office the following information:

33 (1) a current list showing the full name and last known street
34 and mailing address of each partner, separately identifying the
35 general partners, in alphabetical order, and the limited partners,
36 in alphabetical order;

37 (2) a copy of the initial certificate of limited partnership and
38 all amendments to and restatements of the certificate, together
39 with signed copies of any powers of attorney under which any
40 certificate, amendment, or restatement has been signed;

- 1 (3) a copy of any filed articles of conversion or merger;
- 2 (4) a copy of the limited partnership's federal, state, and local
- 3 income tax returns and reports, if any, for the six most recent
- 4 years;
- 5 (5) a copy of any partnership agreement made in a record and
- 6 any amendment made in a record to any partnership agreement;
- 7 (6) a copy of any financial statement of the limited partnership
- 8 for the six most recent years;
- 9 (7) a copy of any record made by the limited partnership
- 10 during the past three years of any consent given by or vote taken
- 11 of any partner pursuant to this chapter or the partnership
- 12 agreement; and
- 13 (8) unless contained in a partnership agreement made in a
- 14 record, a record stating:
 - 15 (A) the amount of cash, and a description and statement of the
 - 16 agreed value of the other benefits, contributed and agreed to be
 - 17 contributed by each partner;
 - 18 (B1) the times at which, or events on the happening of which,
 - 19 any additional contributions agreed to be made by each partner
 - 20 are to be made;
 - 21 (C) for any person that is both a general partner and a limited
 - 22 partner, a specification of what transferable interest the person
 - 23 owns in each capacity; and
 - 24 (D) any events upon the happening of which the limited
 - 25 partnership is to be dissolved and its activities wound up.
- 26 15901.12. A partner may lend money to and transact other
- 27 business with the limited partnership and has the same rights and
- 28 obligations with respect to the loan or other transaction as a
- 29 person that is not a partner.
- 30 15901.13. A person may be both a general partner and a
- 31 limited partner. A person that is both a general and limited
- 32 partner has the rights, powers, duties, and obligations provided
- 33 by this chapter and the partnership agreement in each of those
- 34 capacities. When the person acts as a general partner, the person
- 35 is subject to the obligations, duties and restrictions under this
- 36 chapter and the partnership agreement for general partners. When
- 37 the person acts as a limited partner, the person is subject to the
- 38 obligations, duties and restrictions under this chapter and the
- 39 partnership agreement for limited partners.

1 15901.14. (a) A limited partnership shall designate and
2 continuously maintain in this state:

3 (1) an office, which need not be a place of its activity in this
4 state; and

5 (2) an agent for service of process.

6 (b) A foreign limited partnership shall designate and
7 continuously maintain in this state an agent for service of
8 process. (c) An agent for service of process of a limited
9 partnership or foreign limited partnership must be an individual
10 who is a resident of this state or other person authorized to do
11 business in this state.

12 15901.15. (a) In order to change its designated office, agent
13 for service of process, or the address of its agent for service of
14 process, a limited partnership or a foreign limited partnership
15 may deliver to the Secretary of State for filing a statement of
16 change containing:

17 (1) the name of the limited partnership or foreign limited
18 partnership;

19 (2) the street and mailing address of its current designated
20 office;

21 (3) if the current designated office is to be changed, the street
22 and mailing address of the new designated office;

23 (4) the name and street and mailing address of its current agent
24 for service of process; and

25 (5) if the current agent for service of process or an address of
26 the agent is to be changed, the new information.

27 (b) Subject to subdivision (c) of Section 15902.06, a statement
28 of change is effective when filed by the Secretary of State.

29 15901.16. (a) In order to resign as an agent for service of
30 process of a limited partnership or foreign limited partnership,
31 the agent must deliver to the Secretary of State for filing a
32 statement of resignation containing the name of the limited
33 partnership or foreign limited partnership.

34 (b) After receiving a statement of resignation, the Secretary of
35 State shall file it and mail a copy to the designated office of the
36 limited partnership or foreign limited partnership and another
37 copy to the principal office if the address of the office appears in
38 the records of the Secretary of State and is different from the
39 address of the designated office.

1 (c) An agency for service of process is terminated on the 31st
2 day after the Secretary of State files the statement of resignation.

3 15901.17. (a) An agent for service of process appointed by a
4 limited partnership or foreign limited partnership is an agent of
5 the limited partnership or foreign limited partnership for service
6 of any process, notice, or demand required or permitted by law to
7 be served upon the limited partnership or foreign limited
8 partnership.

9 (b) If a limited partnership or foreign limited partnership does
10 not appoint or maintain an agent for service of process in this
11 state or the agent for service of process cannot with reasonable
12 diligence be found at the agent's address, the Secretary of State is
13 an agent of the limited partnership or foreign limited partnership
14 upon whom process, notice, or demand may be served.

15 (c) Service of any process, notice, or demand on the Secretary
16 of State may be made by delivering to and leaving with the
17 Secretary of State duplicate copies of the process, notice, or
18 demand. If a process, notice, or demand is served on the
19 Secretary of State, the Secretary of State shall forward one of the
20 copies by registered or certified mail, return receipt requested, to
21 the limited partnership or foreign limited partnership at its
22 designated office.

23 (d) Service is effected under subdivision (c) at the earliest of:

24 (1) the date the limited partnership or foreign limited
25 partnership receives the process, notice, or demand;

26 (2) the date shown on the return receipt, if signed on behalf of
27 the limited partnership or foreign limited partnership; or

28 (3) five days after the process, notice, or demand is deposited
29 in the mail, if mailed postpaid and correctly addressed.

30 (e) The Secretary of State shall keep a record of each process,
31 notice, and demand served pursuant to this section and record the
32 time of, and the action taken regarding, the service.

33 (f) This section does not affect the right to serve process,
34 notice, or demand in any other manner provided by law.

35 15901.18. Action requiring the consent of partners under this
36 chapter may be taken without a meeting, and a partner may
37 appoint a proxy to consent or otherwise act for the partner by
38 signing an appointment record, either personally or by the
39 partner's attorney in fact.

1 15901.19. (a) In addition to Chapter 4 (commencing with
2 Section 413.10) of Title 5 of Part 2 of the Code of Civil
3 Procedure, process may be served upon limited partnerships and
4 foreign limited partnerships as provided in this Section.

5 (b) Personal service of a copy of any process against the
6 limited partnership or the foreign limited partnership by delivery
7 (1) to any individual designated by it as agent or, if a limited
8 partnership, to any general partner or (2) if the designated agent
9 or, if a limited partnership, general partner is a corporation, to
10 any person named in the latest certificate of the corporate agent
11 filed pursuant to Section 1505 of the Corporations Code at the
12 office of the corporate agent or to any officer of the general
13 partner, shall constitute valid service on the limited partnership
14 or the foreign limited partnership. No change in the address of
15 the agent for service of process or appointment of a new agent
16 for service of process shall be effective (1) for a limited
17 partnership until an amendment to the certificate of limited
18 partnership is filed or (2) for a foreign limited partnership until
19 an amendment to the application for certificate of authority is
20 filed. In the case of a foreign limited partnership that has
21 appointed the Secretary of State as agent for service of process
22 by reason of subdivision (e) of Section 15909.07, process shall
23 be delivered by hand to the Secretary of State, or to any person
24 employed in the capacity of assistant or deputy, which shall be
25 one copy of the process for each defendant to be served, together
26 with a copy of the court order authorizing the service and the fee
27 therefor. The order shall include and set forth an address to
28 which such process shall be sent by the Secretary of State.

29 (c) (1) If an agent for service of process has resigned and has
30 not been replaced or if the agent designated cannot with
31 reasonable diligence be found at the address designated for
32 personal delivery of the process, and it is shown by affidavit to
33 the satisfaction of the court that process against a limited
34 partnership or foreign limited partnership cannot be served with
35 reasonable diligence upon the designated agent or, if a foreign
36 limited partnership, upon any general partner by hand in the
37 manner provided in Section 415.10, subdivision (a) of Section
38 415.20 or subdivision (a) of Section 415.30, of the Code of Civil
39 Procedure, the court may make an order that the service shall be
40 made upon a domestic limited partnership which has filed a

1 certificate or upon a foreign limited partnership which has a
2 certificate of authority to transact business in this State by
3 delivering by hand to the Secretary of State, or to any person
4 employed in the Secretary of State's office in the capacity of
5 assistant or deputy, one copy of the process for each defendant to
6 be served, together with a copy of the order authorizing the
7 service. Service in this manner shall be deemed complete on the
8 10th day after delivery of the process to the Secretary of State.

9 (2) Upon receipt of any such copy of process and the fee
10 therefor, the Secretary of State shall give notice of the service of
11 the process to the limited partnership or foreign limited
12 partnership, at its principal executive office, by forwarding to
13 that office, by registered mail with request for return receipt, the
14 copy of the process.

15 (3) The Secretary of State shall keep a record of all process
16 served upon the Secretary of State under this chapter and shall
17 record therein the time of service and the Secretary of State's
18 action with reference thereto. A certificate under the Secretary of
19 State's official seal, certifying to the receipt of process, the
20 giving of notice thereof to the limited partnership or foreign
21 limited partnership, and the forwarding of the process pursuant to
22 this section, shall be competent and prima facie evidence of the
23 matters stated therein.

24 (d) (1) The certificate of a limited partnership and the
25 application for a certificate of authority of a foreign limited
26 partnership shall designate, as the agent for service of process, an
27 individual residing in this state or a corporation which has
28 complied with Section 1505 of the Corporations Code and whose
29 capacity to act as an agent has not terminated. If an individual is
30 designated, the statement shall set forth that person's complete
31 business or residence address in this state.

32 (2) An agent designated for service of process may file with
33 the Secretary of State a signed and acknowledged written
34 statement of resignation as an agent. Thereupon the authority of
35 the agent to act in that capacity shall cease and the Secretary of
36 State forthwith shall give written notice of the filing of the
37 statement of resignation by mail to the limited partnership or
38 foreign limited partnership addressed to its principal executive
39 office.

(3) If an individual who has been designated agent for service of process dies or resigns or no longer resides in the state or if the corporate agent for that purpose, resigns, dissolves, withdraws from the state, forfeits its right to transact intrastate business, has its corporate rights, powers and privileges suspended or ceases to exist, (A) the limited partnership shall promptly file an amendment to the certificate designating a new agent or (B) the foreign limited partnership shall promptly file an amendment to the application for certificate of authority.

(e) In addition to any other discovery rights which may exist, in any case pending in a California court having jurisdiction in which a party seeks records from a partnership formed under this chapter, whether or not the partnership is a party, the court shall have the power to order the production in California of the books and records of the partnership on the terms and conditions that the court deems appropriate.

15901.20. (a) A partner may, in a written partnership agreement or other writing, consent to be subject to the nonexclusive jurisdiction of the courts of a specified jurisdiction, or the exclusive jurisdiction of the courts of this state.

(b) If a partner desires to use the arbitration process, that partner may in a written partnership agreement or other writing, consent to be nonexclusively subject to arbitration in a specified state, or to be exclusively subject to arbitration in this state.

(c) Along with this consent to the jurisdiction of courts or arbitration, a partner may consent to be served with legal process in the manner prescribed in the partnership agreement or other writing.

Article 2. Formation; Certificate of Limited Partnership and Other Filings

15902.01. (a) In order for a limited partnership to be formed, a certificate of limited partnership must be filed by the Secretary of State and, either before or after the filing of a certificate of limited partnership, the partners shall have entered into a partnership agreement. The certificate must state:

(1) the name of the limited partnership, which must comply with Section 15901.08;

1 (2) the street and mailing address of the initial designated
2 office and the name and street and mailing address of the initial
3 agent for service of process;

4 (3) the name and the street and mailing address of each
5 general partner;

6 (4) whether the limited partnership is a limited liability limited
7 partnership; and

8 (5) any additional information required by Article 11
9 (commencing with Section 15911.01).

10 (b) A certificate of limited partnership may also contain any
11 other matters but may not vary or otherwise affect the provisions
12 specified in subdivision (b) of Section 15901.10 in a manner
13 inconsistent with that section.

14 (c) If there has been substantial compliance with subdivision
15 (a), subject to subdivision (c) of Section 15902.06 a limited
16 partnership is formed when the Secretary of State files the
17 certificate of limited partnership.

18 (d) Subject to subdivision (b), if any provision of a partnership
19 agreement is inconsistent with the filed certificate of limited
20 partnership or with a filed statement of dissociation, termination,
21 or change or filed articles of conversion or merger:

22 (1) the partnership agreement prevails as to partners and
23 transferees; and

24 (2) the filed certificate of limited partnership, statement of
25 dissociation, termination, or change or articles of conversion or
26 merger prevail as to persons, other than partners and transferees,
27 that reasonably rely on the filed record to their detriment.

28 (e) A limited partnership may record in the office of the
29 county recorder of any county in this state a certified copy of the
30 certificate of limited partnership, or any amendment thereto,
31 which has been filed by the Secretary of State. A foreign limited
32 partnership may record in the office of the county recorder of any
33 county in the state a certified copy of the application for authority
34 to transact business, together with the certificate of authority,
35 referred to in Section 15909.02, or any amendment thereto,
36 which has been filed by the Secretary of State. The recording
37 shall create a conclusive presumption in favor of any bona fide
38 purchaser or encumbrancer for value of the partnership real
39 property located in the county in which the certified copy has
40 been recorded, that the persons named as general partners therein

1 are the general partners of the partnership named and that they
2 are all of the general partners of the partnership.

3 (f) The Secretary of State may cancel the filing of certificates
4 of limited partnership if a check or other remittance accepted in
5 payment of the filing fee is not paid upon presentation. For
6 partners and transferees, the partnership agreement is paramount.
7 Upon receiving written notification that the item presented for
8 payment has not been honored for payment, the Secretary of
9 State shall give a first written notice of the applicability of this
10 Section to the agent for service of process or to the person
11 submitting the instrument. Thereafter, if the amount has not been
12 paid by cashier's check or equivalent, the Secretary of State shall
13 give a second written notice of cancellation and the cancellation
14 shall thereupon be effective. The second notice shall be given 20
15 days or more after the first notice and 90 days or less after the
16 original filing.

17 (g) The Secretary of State shall include with instructional
18 materials, provided in conjunction with the form for filing a
19 certificate of limited partnership under subdivision (a), a notice
20 that the filing of the certificate of limited partnership will
21 obligate the limited partnership to pay an annual tax for that
22 taxable year to the Franchise Tax Board pursuant to Section
23 17935 of the Revenue and Taxation Code. That notice shall be
24 updated annually to specify the dollar amount of the annual tax.

25 15902.02. (a) In order to amend its certificate of limited
26 partnership, a limited partnership must deliver to the Secretary of
27 State for filing an amendment or, pursuant to Article 11
28 (commencing with Section 15911.01), articles of merger stating:

29 (1) the name and the Secretary of State's file number of the
30 limited partnership;

31 (2) the date of filing of its initial certificate; and

32 (3) the changes the amendment makes to the certificate as
33 most recently amended or restated.

34 (b) A limited partnership shall promptly deliver to the
35 Secretary of State for filing an amendment to a certificate of
36 limited partnership to reflect:

37 (1) the admission of a new general partner;

38 (2) the dissociation of a person as a general partner; or

(3) the appointment of a person to wind up the limited partnership's activities under subdivisions (c) or (d) of Section 15908.03.

(c) A general partner that knows that any information in a filed certificate of limited partnership was false when the certificate was filed or has become false due to changed circumstances shall promptly:

(1) cause the certificate to be amended; or

(2) if appropriate, deliver to the Secretary of State for filing a statement of change pursuant to Section 15901.15 or a statement of correction pursuant to Section 15902.07.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

(e) A restated certificate of limited partnership may be delivered to the Secretary of State for filing in the same manner as an amendment.

(f) Subject to subdivision (c) of Section 15902.06, an amendment or restated certificate is effective when filed by the Secretary of State.

15902.03. A dissolved limited partnership that has completed winding up may deliver to the Secretary of State for filing a statement of termination that states:

(1) the name of the limited partnership and the Secretary of State's file number;

(2) the date of filing of its initial certificate of limited partnership; and

(3) any other information as determined by the general partners filing the statement or by a person appointed pursuant to subdivisions (c) or (d) of Section 15908.03.

15902.04. (a) Each record delivered to the Secretary of State for filing pursuant to this chapter must be signed in the following manner:

(1) An initial certificate of limited partnership must be signed by all general partners listed in the certificate.

(2) An amendment adding or deleting a statement that the limited partnership is a limited liability partnership must be signed by all general partners listed in the certificate.

(3) An amendment designating as general partner a person admitted under paragraph (2) of subdivision (c) of Section

1 15908.01 following the dissociation of a limited partnership's
2 last general partner must be signed by that person.

3 (4) An amendment required by subdivision (c) of Section
4 15908.03 following the appointment of a person to wind up the
5 dissolved limited partnership's activities must be signed by that
6 person.

7 (5) Any other amendment must be signed by:

8 (A) at least one general partner listed in the certificate;

9 (B) each other person designated in the amendment as a new
10 general partner; and

11 (C) each person that the amendment indicates has dissociated
12 as a general partner, unless:

13 (i) the person is deceased or a guardian or general conservator
14 has been appointed for the person and the amendment so states;
15 or

16 (ii) the person has previously delivered to the Secretary of
17 State for filing a statement of dissociation.

18 (6) A restated certificate of limited partnership must be signed
19 by at least one general partner listed in the certificate, and, to the
20 extent the restated certificate effects a change under any other
21 paragraph of this subdivision, the certificate must be signed in a
22 manner that satisfies that paragraph.

23 (7) A statement of termination must be signed by all general
24 partners listed in the certificate or, if the certificate of a dissolved
25 limited partnership lists no general partners, by the person
26 appointed pursuant to subdivisions (c) or (d) of Section 15908.03
27 to wind up the dissolved limited partnership's activities.

28 (8) Articles of conversion must be signed by each general
29 partner listed in the certificate of limited partnership.

30 (9) Articles of merger must be signed as provided in
31 subdivision (a) of Section 15911.08.

32 (10) Any other record delivered on behalf of a limited
33 partnership to the Secretary of State for filing must be signed by
34 at least one general partner listed in the certificate.

35 (11) A statement by a person pursuant to paragraph (4) of
36 subdivision (a) of Section 15906.05 stating that the person has
37 dissociated as a general partner must be signed by that person.

38 (12) A statement of withdrawal by a person pursuant to
39 Section 15903.06 must be signed by that person.

1 (13) A record delivered on behalf of a foreign limited
2 partnership to the Secretary of State for filing must be signed by
3 at least one general partner of the foreign limited partnership.

4 (14) Any other record delivered on behalf of any person to the
5 Secretary of State for filing must be signed by that person.

6 (b) Any person may sign by an attorney in fact any record to
7 be filed pursuant to this chapter.

8 15902.05. (a) If a person required by this chapter to sign a
9 record or deliver a record to the Secretary of State for filing does
10 not do so, any other person that is aggrieved may petition the
11 superior court to order:

12 (1) the person to sign the record;

13 (2) deliver the record to the Secretary of State for filing; or

14 (3) the Secretary of State to file the record unsigned.

15 (b) If the person aggrieved under subdivision (a) is not the
16 limited partnership or foreign limited partnership to which the
17 record pertains, the aggrieved person shall make the limited
18 partnership or foreign limited partnership a party to the action. A
19 person aggrieved under subdivision (a) may seek the remedies
20 provided in subdivision (a) in the same action in combination or
21 in the alternative. In any action under this subdivision, if the
22 court finds the failure of the person to comply with the
23 requirement to sign a record or deliver a record to the Secretary
24 of State for filing to have been without justification, the court
25 may award an amount sufficient to reimburse the persons
26 aggrieved under subdivision (a) bringing the action for the
27 reasonable expenses incurred by such persons, including
28 attorneys' fees, in connection with the action or proceeding.

29 (c) A record filed unsigned pursuant to this section is effective
30 without being signed.

31 (d) Any person, other than a general partner, delivering a
32 record to the Secretary of State for filing, shall state the statutory
33 authority for such action after the signature on the appropriate
34 record.

35 15902.06. (a) A record authorized or required to be delivered
36 to the Secretary of State for filing under this chapter must be
37 captioned to describe the record's purpose, be in a medium
38 permitted by the Secretary of State, and be delivered to the
39 Secretary of State. Unless the Secretary of State determines that
40 a record does not comply with the filing requirements of this

chapter, and if all filing fees have been paid, the Secretary of State shall file the record and:

(1) for a statement of dissociation, send:

(A) a copy of the filed statement and a receipt for the fees to the person which the statement indicates has dissociated as a general partner; and

(B) a copy of the filed statement and receipt to the limited partnership;

(2) for a statement of withdrawal, send:

(A) a copy of the filed statement and a receipt for the fees to the person on whose behalf the record was filed; and

(B) if the statement refers to an existing limited partnership, a copy of the filed statement and receipt to the limited partnership; and

(3) for all other records, send a copy of the filed record and a receipt for the fees to the person on whose behalf the record was filed.

(b) Upon request and payment of the fee set forth in Government Code Section 12183, the Secretary of State shall send to the requestor a certified copy of the requested record.

(c) Except as otherwise provided in Sections 15901.16 and 15902.07, a record delivered to the Secretary of State for filing under this chapter may specify an effective time and a delayed effective date. Except as otherwise provided in this chapter, a record filed by the Secretary of State is effective:

(1) if the record does not specify an effective time and does not specify a delayed effective date, on the date and at the time the record is filed as evidenced by the Secretary of State's endorsement of the date and time on the record;

(2) if the record specifies an effective time but not a delayed effective date, on the date the record is filed at the time specified in the record;

(3) if the record specifies a delayed effective date but not an effective time, at 12:01 a.m. on the earlier of:

(A) the specified date; or

(B) the 90th day after the record is filed; or

(4) if the record specifies an effective time and a delayed effective date, at the specified time on the earlier of:

(A) the specified date; or

(B) the 90th day after the record is filed.

(d) In case a delayed effective date is specified, the record may be prevented from becoming effective by a certificate stating that by appropriate action it has been revoked and is null and void, executed in the same manner as the original record and delivered to the Secretary of State for filing before the specified effective date. In the case of articles of merger, a certificate revoking the earlier filing need only be executed on behalf of one of the constituent parties to the merger. If no such revocation certificate is filed, the record becomes effective on the date specified.

(e) If the Secretary of State determines that a record delivered to the Secretary of State for filing does not conform to the law and returns it to the person delivering it, the record may be resubmitted accompanied by a written opinion of the member of the State Bar of California delivering the record or representing the person delivering it, to the effect that the specific provisions of the record objected to by the Secretary of State do conform to law and stating the points and authorities upon which the opinion is based. The Secretary of State shall rely, with respect to any disputed point of law, other than the application of Sections 15901.08, 15901.09, 15909.02, and 15909.05, upon that written opinion in determining whether the record conforms to law. When filed by the Secretary of State upon resubmission, such record is effective retroactively as of the date that the original record was delivered to the Secretary of State for filing.

15902.07. (a) A limited partnership or foreign limited partnership may deliver to the Secretary of State for filing a statement of correction to correct a record previously delivered by the limited partnership or foreign limited partnership to the Secretary of State and filed by the Secretary of State, if at the time of filing the record contained false or erroneous information or was defectively signed.

(b) A statement of correction may not state a delayed effective date and must:

(1) describe the record to be corrected, including its filing date, or attach a copy of the record as filed;

(2) specify the incorrect information and the reason it is incorrect or the manner in which the signing was defective; and

(3) correct the incorrect information or defective signature.

(c) When filed by the Secretary of State, a statement of correction is effective retroactively as of the effective date of the

1 record the statement corrects, but the statement is effective when
2 filed:

3 (1) for the purposes of subdivisions (c) and (d) of Section
4 15901.03; and

5 (2) as to persons relying on the uncorrected record and
6 adversely affected by the correction.

7 15902.08. (a) If a record delivered to the Secretary of State
8 for filing under this chapter and filed by the Secretary of State
9 contains false information, a person that suffers loss by reliance
10 on the information may recover damages for the loss from:

11 (1) a person that signed the record, or caused another to sign it
12 on the person's behalf, and knew the information to be false at
13 the time the record was signed; and

14 (2) a general partner that has notice that the information was
15 false when the record was filed or has become false because of
16 changed circumstances, if the general partner has notice for a
17 reasonably sufficient time before the information is relied upon
18 to enable the general partner to effect an amendment under
19 Section 15902.02, file a petition pursuant to Section 15902.05, or
20 deliver to the Secretary of State for filing a statement of change
21 pursuant to Section 15901.15 or a statement of correction
22 pursuant to Section 15902.07.

23 (b) Signing a record authorized or required to be filed under
24 this chapter constitutes an affirmation under the penalties of
25 perjury that the facts stated in the record are true.

26 15902.09. (a) The Secretary of State, upon request and
27 payment of the requisite fee, shall furnish a certificate of
28 existence for a limited partnership if the records filed in the
29 office of the Secretary of State show that the Secretary of State
30 has filed a certificate of limited partnership and has not filed a
31 statement of termination. A certificate of existence must state:

32 (1) the limited partnership's name;

33 (2) that it was duly formed under the laws of this state and the
34 date of formation;

35 (3) whether all fees, taxes, and penalties due to the Secretary
36 of State under this chapter or other law have been paid;

37 (4) whether the Secretary of State has administratively
38 dissolved the limited partnership;

1 (5) whether the limited partnership's certificate of limited
2 partnership has been amended to state that the limited partnership
3 is dissolved;

4 (6) that a statement of termination has not been filed by the
5 Secretary of State; and

6 (7) other facts of record in the office of the Secretary of State
7 which may be requested by the applicant.

8 (b) The Secretary of State, upon request and payment of the
9 requisite fee, shall furnish a certificate of authorization for a
10 foreign limited partnership if the records filed in the office of the
11 Secretary of State show that the Secretary of State has filed a
12 certificate of authority, has not revoked the certificate of
13 authority, and has not filed a notice of cancellation. A certificate
14 of authorization must state:

15 (1) the foreign limited partnership's name and any alternate
16 name adopted under subdivision (a) of Section 15909.05 for use
17 in this state;

18 (2) that it is authorized to transact business in this state;

19 (3) whether all fees, taxes, and penalties due to the Secretary
20 of State under this chapter or other law have been paid;

21 (4) that the Secretary of State has not revoked its certificate of
22 authority and has not filed a notice of cancellation; and

23 (5) other facts of record in the office of the Secretary of State
24 which may be requested by the applicant.

25 (c) Subject to any qualification stated in the certificate, a
26 certificate of existence or authorization issued by the Secretary of
27 State may be relied upon as conclusive evidence that the limited
28 partnership or foreign limited partnership is in existence or is
29 authorized to transact business in this state
30

31 Article 3. Limited Partners

32
33 15903.01. A person becomes a limited partner:

34 (a) as provided in the partnership agreement;

35 (b) as the result of a conversion or merger under Article 11
36 (commencing with Section 15911.01); or

37 (c) with the consent of all the partners.

38 15903.02. A limited partner does not have the right or the
39 power as a limited partner to act for or bind the limited
40 partnership.

1 15903.03. An obligation of a limited partnership, whether
2 arising in contract, tort, or otherwise, is not the obligation of a
3 limited partner. A limited partner is not personally liable, directly
4 or indirectly, by way of contribution or otherwise, for an
5 obligation of the limited partnership solely by reason of being a
6 limited partner, even if the limited partner participates in the
7 management and control of the limited partnership.

8 15903.04. (a) On 10 days' demand, made in a record received
9 by the limited partnership, a limited partner may inspect and
10 copy required information during regular business hours in the
11 limited partnership's designated office. The limited partner need
12 not have any particular purpose for seeking the information.

13 (b) Subject to subdivision (g), during regular business hours
14 and at a reasonable location specified by the limited partnership,
15 a limited partner may obtain from the limited partnership and
16 inspect and copy true and full information regarding the state of
17 the activities and financial condition of the limited partnership
18 and other information regarding the activities of the limited
19 partnership as is just and reasonable if:

20 (1) the limited partner seeks the information for a purpose
21 reasonably related to the partner's interest as a limited partner;

22 (2) the limited partner makes a demand in a record received by
23 the limited partnership, describing with reasonable particularity
24 the information sought and the purpose for seeking the
25 information; and

26 (3) the information sought is directly connected to the limited
27 partner's purpose.

28 (c) Within 10 days after receiving a demand pursuant to
29 subdivision (b), the limited partnership in a record shall inform
30 the limited partner that made the demand:

31 (1) what information the limited partnership will provide in
32 response to the demand;

33 (2) when and where the limited partnership will provide the
34 information; and

35 (3) if the limited partnership declines to provide any
36 demanded information, the limited partnership's reasons for
37 declining.

38 (d) Subject to subdivision (f), a person dissociated as a limited
39 partner may inspect and copy required information during regular
40 business hours in the limited partnership's designated office if:

1 (1) the information pertains to the period during which the
2 person was a limited partner;

3 (2) the person seeks the information in good faith; and

4 (3) the person meets the requirements of subdivision (b).

5 (e) The limited partnership shall respond to a demand made
6 pursuant to subdivision (d) in the same manner as provided in
7 subdivision (c).

8 (f) If a limited partner dies, Section 15907.04 applies.

9 (g) The limited partnership shall have the right to keep
10 confidential from limited partners for such period of time as the
11 limited partnership deems reasonable, any information which the
12 limited partnership reasonably believes to be in the nature of
13 trade secrets or other information the disclosure of which the
14 limited partnership in good faith believes is not in the best
15 interest of the limited partnership or could damage the limited
16 partnership or its business or which the limited partnership is
17 required by law or by agreement with a third party to keep
18 confidential.

19 (h) The limited partnership may impose reasonable restrictions
20 on the use of information obtained under this section. In a dispute
21 concerning the reasonableness of a restriction under this
22 subdivision, the limited partnership has the burden of proving
23 reasonableness.

24 (i) A limited partnership may charge a person that makes a
25 demand under this section reasonable costs of copying, limited to
26 the costs of labor and material.

27 (j) Whenever this chapter or a partnership agreement provides
28 for a limited partner to give or withhold consent to a matter,
29 before the consent is given or withheld, the limited partnership
30 shall, without demand, provide the limited partner with all
31 information material to the limited partner's decision that the
32 limited partnership knows.

33 (k) A limited partner or person dissociated as a limited partner
34 may exercise the rights under this section through an attorney or
35 other agent. Any restriction imposed under subdivision (g),
36 subdivision (h) or by the partnership agreement applies both to
37 the attorney or other agent and to the limited partner or person
38 dissociated as a limited partner.

39 (l) The rights stated in this section do not extend to a person as
40 transferee, but may be exercised by the legal representative of an

1 individual under legal disability who is a limited partner or
2 person dissociated as a limited partner.

3 15903.05. (a) A limited partner does not have any fiduciary
4 duty to the limited partnership or to any other partner solely by
5 reason of being a limited partner.

6 (b) A limited partner shall discharge the duties to the
7 partnership and the other partners under this chapter or under the
8 partnership agreement and exercise any rights consistently with
9 the obligation of good faith and fair dealing.

10 (c) A limited partner does not violate a duty or obligation
11 under this chapter or under the partnership agreement merely
12 because the limited partner's conduct furthers the limited
13 partner's own interest.

14 15903.06. (a) Except as otherwise provided in subdivision
15 (b), a person that makes an investment in a business enterprise
16 and erroneously but in good faith believes that the person has
17 become a limited partner in the enterprise is not liable for the
18 enterprise's obligations by reason of making the investment,
19 receiving distributions from the enterprise, or exercising any
20 rights of or appropriate to a limited partner, if, on ascertaining the
21 mistake, the person:

22 (1) causes an appropriate certificate of limited partnership,
23 amendment, or statement of correction to be signed and delivered
24 to the Secretary of State for filing; or

25 (2) withdraws from future participation as an owner in the
26 enterprise by signing and delivering to the Secretary of State for
27 filing a statement of withdrawal under this Section.

28 (b) A person that makes an investment described in
29 subdivision (a) is liable to the same extent as a general partner to
30 any third party that enters into a transaction with the enterprise,
31 believing in good faith that the person is a general partner, before
32 the Secretary of State files a statement of withdrawal, certificate
33 of limited partnership, amendment, or statement of correction to
34 show that the person is not a general partner.

35 (c) If a person makes a diligent effort in good faith to comply
36 with paragraph (1) of subdivision (a) and is unable to cause the
37 appropriate certificate of limited partnership, amendment, or
38 statement of correction to be signed and delivered to the
39 Secretary of State for filing, the person has the right to withdraw
40 from the enterprise pursuant to paragraph (2) of subdivision (a)

1 even if the withdrawal would otherwise breach an agreement
2 with others that are or have agreed to become co-owners of the
3 enterprise.

4 15903.07. (a) partnership agreement may provide for the
5 creation of classes of limited partners. The partnership agreement
6 shall define the rights, powers, and duties of those classes,
7 including rights, powers, and duties senior to other classes of
8 limited partners.

9 (b) The partnership agreement may provide to all or certain
10 specified classes of limited partners the right to vote separately or
11 with all or any class or the general partners on any matter.

12 13 Article 4. General Partners 14

15 15904.01. A person becomes a general partner:

16 (a) as provided in the partnership agreement:

17 (b) under paragraph (2) of subdivision (c) of Section 15908.01
18 following the dissociation of a limited partnership's last general
19 partner;

20 (c) as the result of a conversion or merger under Article 11
21 (commencing with Section 15911.01); or

22 (d) with the consent of all the partners.

23 15904.02. (a) Each general partner is an agent of the limited
24 partnership for the purposes of its activities. An act of a general
25 partner, including the signing of a record in the partnership's
26 name, for apparently carrying on in the ordinary course the
27 limited partnership's activities or activities of the kind carried on
28 by the limited partnership binds the limited partnership, unless
29 the general partner did not have authority to act for the limited
30 partnership in the particular matter and the person with which the
31 general partner was dealing knew, had received a notification, or
32 had notice under subdivision (d) of Section 15901.03 that the
33 general partner lacked authority.

34 (b) An act of a general partner which is not apparently for
35 carrying on in the ordinary course the limited partnership's
36 activities or activities of the kind carried on by the limited
37 partnership binds the limited partnership only if the act was
38 actually authorized by all the other partners.

39 15904.03. (a) A limited partnership is liable for loss or injury
40 caused to a person, or for a penalty incurred, as a result of a

1 wrongful act or omission, or other actionable conduct, of a
2 general partner acting in the ordinary course of activities of the
3 limited partnership or with authority of the limited partnership.

4 (b) If, in the course of the limited partnership's activities or
5 while acting with authority of the limited partnership, a general
6 partner receives or causes the limited partnership to receive
7 money or property of a person not a partner, and the money or
8 property is misapplied by a general partner, the limited
9 partnership is liable for the loss.

10 15904.04. (a) Except as otherwise provided in subdivisions
11 (b) and (c), all general partners are liable jointly and severally for
12 all obligations of the limited partnership unless otherwise agreed
13 by the claimant or provided by law.

14 (b) A person that becomes a general partner of an existing
15 limited partnership is not personally liable for an obligation of a
16 limited partnership incurred before the person became a general
17 partner.

18 (c) An obligation of a limited partnership incurred while the
19 limited partnership is a limited liability limited partnership,
20 whether arising in contract, tort, or otherwise, is solely the
21 obligation of the limited partnership. A general partner is not
22 personally liable, directly or indirectly, by way of contribution or
23 otherwise, for such an obligation solely by reason of being or
24 acting as a general partner. This subdivision applies despite
25 anything inconsistent in the partnership agreement that existed
26 immediately before the consent required to become a limited
27 liability limited partnership under paragraph (2) of subdivision
28 (b) of Section 15904.06.

29 15904.05. (a) To the extent not inconsistent with Section
30 15904.04, a general partner may be joined in an action against
31 the limited partnership or named in a separate action.

32 (b) A judgment against a limited partnership is not by itself a
33 judgment against a general partner. A judgment against a limited
34 partnership may not be satisfied from a general partner's assets
35 unless there is also a judgment against the general partner.

36 (c) A judgment creditor of a general partner may not levy
37 execution against the assets of the general partner to satisfy a
38 judgment based on a claim against the limited partnership, unless
39 the partner is personally liable for the claim under Section
40 15904.04 and:

1 (1) a judgment based on the same claim has been obtained
2 against the limited partnership and a writ of execution on the
3 judgment has been returned unsatisfied in whole or in part;

4 (2) the limited partnership is a debtor in bankruptcy;

5 (3) the general partner has agreed that the creditor need not
6 exhaust limited partnership assets;

7 (4) a court grants permission to the judgment creditor to levy
8 execution against the assets of a general partner based on a
9 finding that limited partnership assets subject to execution are
10 clearly insufficient to satisfy the judgment, that exhaustion of
11 limited partnership assets is excessively burdensome, or that the
12 grant of permission is an appropriate exercise of the court's
13 equitable powers; or

14 (5) liability is imposed on the general partner by law or
15 contract independent of the existence of the limited partnership.

16 15904.06. (a) Each general partner has equal rights in the
17 management and conduct of the limited partnership's activities.
18 Except as expressly provided in this chapter, any matter relating
19 to the activities of the limited partnership may be exclusively
20 decided by the general partner or, if there is more than one
21 general partner, by a majority of the general partners.

22 (b) The consent of each partner is necessary to:

23 (1) amend the partnership agreement;

24 (2) amend the certificate of limited partnership to add or,
25 subject to Section 15911.10, delete a statement that the limited
26 partnership is a limited liability limited partnership; and

27 (3) sell, lease, exchange, or otherwise dispose of all, or
28 substantially all, of the limited partnership's property, with or
29 without the good will, other than in the usual and regular course
30 of the limited partnership's activities.

31 (c) A limited partnership shall reimburse a general partner for
32 payments made and indemnify a general partner for liabilities
33 incurred by the general partner in the ordinary course of the
34 activities of the partnership or for the preservation of its activities
35 or property.

36 (d) A limited partnership shall reimburse a general partner for
37 an advance to the limited partnership beyond the amount of
38 capital the general partner agreed to contribute.

39 (e) A payment or advance made by a general partner which
40 gives rise to an obligation of the limited partnership under

1 subdivision (c) or (d) constitutes a loan to the limited partnership
2 which accrues interest from the date of the payment or advance.

3 (f) A general partner is not entitled to remuneration for
4 services performed for the partnership.

5 15904.07. (a) A general partner, without having any
6 particular purpose for seeking the information, may inspect and
7 copy during regular business hours:

8 (1) in the limited partnership's designated office, required
9 information; and

10 (2) at a reasonable location specified by the limited
11 partnership, any other records maintained by the limited
12 partnership regarding the limited partnership's activities and
13 financial condition.

14 (b) Each general partner and the limited partnership shall
15 furnish to a general partner:

16 (1) without demand, any information concerning the limited
17 partnership's activities and activities reasonably required for the
18 proper exercise of the general partner's rights and duties under
19 the partnership agreement or this chapter; and

20 (2) on demand, any other information concerning the limited
21 partnership's activities, except to the extent the demand or the
22 information demanded is unreasonable or otherwise improper
23 under the circumstances.

24 (c) Subject to subdivision (e), on 10 days' demand made in a
25 record received by the limited partnership, a person dissociated
26 as a general partner may have access to the information and
27 records described in subdivision (a) at the location specified in
28 subdivision (a) if:

29 (1) the information or record pertains to the period during
30 which the person was a general partner;

31 (2) the person seeks the information or record in good faith;
32 and

33 (3) the person satisfies the requirements imposed on a limited
34 partner by subdivision (b) of Section 15903.04.

35 (d) The limited partnership shall respond to a demand made
36 pursuant to subdivision (c) in the same manner as provided in
37 subdivision (c) of Section 15903.04.

38 (e) If a general partner dies, Section 15907.04 applies.

39 (f) The limited partnership may impose reasonable restrictions
40 on the use of information under this section. In any dispute

1 concerning the reasonableness of a restriction under this
2 subdivision, the limited partnership has the burden of proving
3 reasonableness.

4 (g) A limited partnership may charge a person dissociated as a
5 general partner that makes a demand under this section
6 reasonable costs of copying, limited to the costs of labor and
7 material.

8 (h) A general partner or person dissociated as a general partner
9 may exercise the rights under this section through an attorney or
10 other agent. Any restriction imposed under subdivision (f) or by
11 the partnership agreement applies both to the attorney or other
12 agent and to the general partner or person dissociated as a general
13 partner.

14 (i) The rights under this section do not extend to a person as
15 transferee, but the rights under subdivision (c) of a person
16 dissociated as a general may be exercised by the legal
17 representative of an individual who dissociated as a general
18 partner under paragraph (2) or (3) of subdivision (g) of Section
19 15906.03.

20 15904.08. (a) The fiduciary duties that a general partner owes
21 to the limited partnership and the other partners are the duties of
22 loyalty and care under subdivisions (b) and (c).

23 (b) A general partner's duty of loyalty to the limited
24 partnership and the other partners is limited to the following:

25 (1) to account to the limited partnership and hold as trustee for
26 it any property, profit, or benefit derived by the general partner in
27 the conduct and winding up of the limited partnership's activities
28 or derived from a use by the general partner of limited
29 partnership property, including the appropriation of a limited
30 partnership opportunity;

31 (2) to refrain from dealing with the limited partnership in the
32 conduct or winding up of the limited partnership's activities as or
33 on behalf of a party having an interest adverse to the limited
34 partnership; and

35 (3) to refrain from competing with the limited partnership in
36 the conduct or winding up of the limited partnership's activities.

37 (c) A general partner's duty of care to the limited partnership
38 and the other partners in the conduct and winding up of the
39 limited partnership's activities is limited to refraining from

1 engaging in grossly negligent or reckless conduct, intentional
2 misconduct, or a knowing violation of law.

3 (d) A general partner shall discharge the duties to the
4 partnership and the other partners under this chapter or under the
5 partnership agreement and exercise any rights consistently with
6 the obligation of good faith and fair dealing.

7 (e) A general partner does not violate a duty or obligation
8 under this chapter or under the partnership agreement merely
9 because the general partner's conduct furthers the general
10 partner's own interest.

11 15904.09. (

12 a) A partnership agreement may provide for the creation of
13 classes of general partners. The partnership agreement shall
14 define the rights, powers, and duties of those classes including
15 rights, powers, and duties senior to other classes of general
16 partners.

17 (b) The partnership agreement may provide to all or certain
18 specified classes of general partners the right to vote separately
19 or with all or any class of the general partners on any matters.

20
21 Article 5. Contributions and Distributions
22

23 15905.01. A contribution of a partner may consist of tangible
24 or intangible property or other benefit to the limited partnership,
25 including money, services performed, promissory notes, other
26 agreements to contribute cash or property, and contracts for
27 services to be performed.

28 15905.02. (a) A partner's obligation to contribute money or
29 other property or other benefit to, or to perform services for, a
30 limited partnership is not excused by the partner's death,
31 disability, or other inability to perform personally.

32 (b) If a partner does not make a promised nonmonetary
33 contribution, the partner is obligated at the option of the limited
34 partnership to contribute money equal to the value of that
35 portion, as stated in the required information, of the stated
36 contribution which has not been made.

37 (c) The obligation of a partner to make a contribution or return
38 money or other property paid or distributed in violation of this
39 chapter may be compromised only by consent of all partners. A
40 creditor of a limited partnership which extends credit or

1 otherwise acts in reliance on an obligation described in
2 subdivision (a), without notice of any compromise under this
3 subdivision, may enforce the original obligation.

4 (d) A partnership agreement may provide that the interest of a
5 partner who fails to make any contribution or other payment that
6 the partner is required to make will be subject to specific
7 remedies for, or specific consequences of, the failure. A
8 provision shall be enforceable in accordance with its terms unless
9 the partner seeking to invalidate the provision establishes that the
10 provision was unreasonable under the circumstances existing at
11 the time the agreement was made. The specific remedies or
12 consequences may include loss of voting, approval, or other
13 rights, loss of the partner's ability to actively participate in the
14 management and operations of the partnership, liquidated
15 damages, or a reduction of the defaulting partner's economic
16 rights. The reduction of the defaulting partner's economic rights
17 may include one or more of the following provisions:

18 (1) Diluting, reducing or eliminating the defaulting partner's
19 proportionate interest in the partnership.

20 (2) Subordinating the defaulting partner's interest in the
21 partnership to that of nondefaulting partners.

22 (3) Permitting a forced sale of the partnership interest.

23 (4) Permitting the lending or contribution by other partners of
24 the amount necessary to meet the defaulting partner's
25 commitment.

26 (5) Adjusting the interest rates or other rates of return,
27 preferred, priority, or otherwise, with respect to contributions by
28 or capital accounts of the other partners.

29 (6) Fixing the value of the defaulting partner's interest in the
30 partnership by appraisal, formula and redemption, or sale of the
31 defaulting partner's interest in the partnership at a percentage of
32 that value.

33 (7) Nothing in this Section shall be construed to affect the
34 rights of third-party creditors of the partnership to seek equitable
35 remedies nor any rights existing under the Uniform Fraudulent
36 Transfer Act (Chapter 1 (commencing with Section 3439) of
37 Title 2 of Part 2 of Division 4 of the Civil Code).

38 15905.03. A distribution by a limited partnership must be
39 shared among the partners on the basis of the value, as stated in
40 the required records when the limited partnership decides to

1 make the distribution, of the contributions the limited partnership
2 has received from each partner.

3 15905.035. The profits and losses of a limited partnership
4 shall be allocated among the partners in the manner provided in
5 the partnership agreement. If the partnership agreement does not
6 otherwise provide, profits and losses shall be allocated in the
7 same manner as the partners share distributions.

8 15905.04. A partner does not have a right to any distribution
9 before the dissolution and winding up of the limited partnership
10 unless the limited partnership decides to make an interim
11 distribution.

12 15905.05. A person does not have a right to receive a
13 distribution on account of dissociation.

14 15905.06. A partner does not have a right to demand or
15 receive any distribution from a limited partnership in any form
16 other than cash. Subject to subdivision (b) of Section 15908.11, a
17 limited partnership may distribute an asset in kind to the extent
18 each partner receives a percentage of the asset equal to the
19 partner's share of distributions.

20 15905.07. When a partner or transferee becomes entitled to
21 receive a distribution, the partner or transferee has the status of,
22 and is entitled to all remedies available to, a creditor of the
23 limited partnership with respect to the distribution. However, the
24 limited partnership's obligation to make a distribution is subject
25 to offset for any amount owed to the limited partnership by the
26 partner or dissociated partner on whose account the distribution
27 is made.

28 15905.08. (a) A limited partnership may not make a
29 distribution in violation of the partnership agreement. For
30 purposes of this Section 15905.08 and Section 15905.09, the
31 term "distribution" shall not include amounts constituting
32 reasonable compensation for present or past services or
33 reasonable payments made in the ordinary course of business
34 pursuant to a bona fide retirement plan or other benefits program.

35 (b) A limited partnership may not make a distribution if after
36 the distribution:

37 (1) the limited partnership would not be able to pay its debts as
38 they become due in the ordinary course of the limited
39 partnership's activities; or

(2) the limited partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the limited partnership were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of partners whose preferential rights are superior to those of persons receiving the distribution.

(c) A limited partnership may base a determination that a distribution is not prohibited under subdivision (b) on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(d) Except as otherwise provided in subdivision (g), the effect of a distribution under subdivision (b) is measured:

(1) in the case of distribution by purchase, redemption, or other acquisition of a transferable interest in the limited partnership, as of the date money or other property is transferred or debt incurred by the limited partnership; and

(2) in all other cases, as of the date:

(A) the distribution is authorized, if the payment occurs within 120 days after that date; or

(B) the payment is made, if payment occurs more than 120 days after the distribution is authorized.

(e) A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section is at parity with the limited partnership's indebtedness to its general unsecured creditors.

(f) A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, is not considered a liability for purposes of subdivision (b) if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners under this Section.

(g) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness is treated as a distribution, the effect of which is measured on the date the payment is made.

15905.09. (a) A general partner that consents to a distribution made in violation of Section 15905.08 is personally liable to the limited partnership for the amount of the distribution which

1 exceeds the amount that could have been distributed without the
2 violation if it is established that in consenting to the distribution
3 the general partner failed to comply with Section 15904.08.

4 (b) A partner or transferee that received a distribution knowing
5 that the distribution to that partner or transferee was made in
6 violation of Section 15905.08 is personally liable to the limited
7 partnership but only to the extent that the distribution received by
8 the partner or transferee exceeded the amount that could have
9 been properly paid under Section 15905.08.

10 (c) A general partner against which an action is commenced
11 under subdivision (a) may:

12 (1) implead in the action any other person that is liable under
13 subdivision (a) and compel contribution from the person; and

14 (2) implead in the action any person that received a
15 distribution in violation of subdivision (b) and compel
16 contribution from the person in the amount the person received in
17 violation of subdivision (b).

18 (d) An action under this Section is barred if it is not
19 commenced within four years after the distribution.

20
21 Article 6. Dissociation
22

23 15906.01. (a) A person does not have a right to dissociate as
24 a limited partner before the termination of the limited
25 partnership.

26 (b) A person is dissociated from a limited partnership as a
27 limited partner upon the occurrence of any of the following
28 events:

29 (1) the limited partnership's having notice of the person's
30 express will to withdraw as a limited partner or on a later date
31 specified by the person;

32 (2) an event agreed to in the partnership agreement as causing
33 the persons dissociation as a limited partner;

34 (3) the person's expulsion as a limited partner pursuant to the
35 partnership agreement;

36 (4) the person's expulsion as a limited partner by the
37 unanimous consent of the other partners if:

38 (A) it is unlawful to carry on the limited partnership's
39 activities with the person as a limited partner;

1 (B) there has been a transfer of all of the person's transferable
2 interest in the limited partnership, other than a transfer for
3 security purposes, or a court order charging the person's interest,
4 which has not been foreclosed;

5 (C) the person is a corporation and, within 90 days after the
6 limited partnership notifies the person that it will be expelled as a
7 limited partner because it has filed a certificate of dissolution or
8 the equivalent, its charter has been revoked, or its right to
9 conduct business has been suspended by the jurisdiction of its
10 incorporation, there is no revocation of the certificate of
11 dissolution or no reinstatement of its charter or its right to
12 conduct business; or

13 (D) the person is a limited liability company or partnership
14 that has been dissolved and whose business is being wound up;

15 (5) on application by the limited partnership, the person's
16 expulsion as a limited partner by judicial order because:

17 (A) the person engaged in wrongful conduct that adversely
18 and materially affected the limited partnership's activities;

19 (B) the person willfully or persistently committed a material
20 breach of the partnership agreement or of the obligation of good
21 faith and fair dealing under subdivision (b) of Section 15903.05;
22 or

23 (C) the person engaged in conduct relating to the limited
24 partnership's activities which makes it not reasonably practicable
25 to carry on the activities with the person as limited partner;

26 (6) in the case of a person who is an individual, the person's
27 death;

28 (7) in the case of a person that is a trust or is acting as a
29 limited partner by virtue of being a trustee of a trust, distribution
30 of the trust's entire transferable interest in the limited
31 partnership, but not merely by reason of the substitution of a
32 successor trustee;

33 (8) in the case of a person that is an estate or is acting as a
34 limited partner by virtue of being a personal representative of an
35 estate, distribution of the estate's entire transferable interest in
36 the limited partnership, but not merely by reason of the
37 substitution of a successor personal representative;

38 (9) termination of a limited partner that is not an individual,
39 partnership, limited liability company, corporation, trust, or
40 estate;

1 (10) the limited partnership's participation in a conversion or
2 merger under Article 11 (commencing with Section 15911.01), if
3 the limited partnership:

4 (A) is not the converted or surviving entity; or

5 (B) is the converted or surviving entity but, as a result of the
6 conversion or merger, the person ceases to be a limited partner.

7 15906.02. (a) Upon a person's dissociation as a limited
8 partner:

9 (1) subject to Section 15907.04, the person does not have
10 further rights as a limited partner;

11 (2) the person's obligation of good faith and fair dealing as a
12 limited partner under subdivision (b) of Section 15903.05
13 continues only as to matters arising and events occurring before
14 the dissociation; and

15 (3) subject to Section 15907.04 and Article 11 (commencing
16 with Section 15911.01), any transferable interest owned by the
17 person in the person's capacity as a limited partner immediately
18 before dissociation is owned by the person as a mere transferee.

19 (b) A person's dissociation as a limited partner does not of
20 itself discharge the person from any obligation to the limited
21 partnership or the other partners which the person incurred while
22 a limited partner.

23 15906.03. A person is dissociated from a limited partnership
24 as a general partner upon the occurrence of any of the following
25 events:

26 (a) the limited partnership's having notice of the person's
27 express will to withdraw as a general partner or on a later date
28 specified by the person;

29 (b) an event agreed to in the partnership agreement as causing
30 the persons dissociation as a general partner;

31 (c) the person's expulsion as a general partner pursuant to the
32 partnership agreement;

33 (d) the person's expulsion as a general partner by the
34 unanimous consent of the other partners if:

35 (1) it is unlawful to carry on the limited partnership's activities
36 with the person as a general partner;

37 (2) there has been a transfer of all or substantially all of the
38 person's transferable interest in the limited partnership, other
39 than a transfer for security purposes, or a court order charging the
40 person's interest, which has not been foreclosed;

1 (3) the person is a corporation and, within 90 days after the
2 limited partnership notifies the person that it will be expelled as a
3 general partner because it has filed a certificate of dissolution or
4 the equivalent, its charter has been revoked, or its right to
5 conduct business has been suspended by the jurisdiction of its
6 incorporation, there is no revocation of the certificate of
7 dissolution or no reinstatement of its charter or its right to
8 conduct business; or

9 (4) the person is a limited liability company or partnership that
10 has been dissolved and whose business is being wound up;

11 (e) on application by the limited partnership, the person's
12 expulsion as a general partner by judicial determination because:

13 (1) the person engaged in wrongful conduct that adversely and
14 materially affected the limited partnership activities;

15 (2) the person willfully or persistently committed a material
16 breach of the partnership agreement or of a duty owed to the
17 partnership or the other partners under Section 15904.08; or

18 (3) the person engaged in conduct relating to the limited
19 partnership's activities which makes it not reasonably practicable
20 to carry on the activities of the limited partnership with the
21 person as a general partner;

22 (f) the person's:

23 (1) becoming a debtor in bankruptcy;

24 (2) execution of an assignment for the benefit of creditors;

25 (3) seeking, consenting to, or acquiescing in the appointment
26 of a trustee, receiver, or liquidator of the person or of all or
27 substantially all of the person's property; or

28 (4) failure, within 90 days after the appointment, to have
29 vacated or stayed the appointment of a trustee, receiver, or
30 liquidator of the general partner or of all or substantially all of
31 the person's property obtained without the person's consent or
32 acquiescence, or failing within 90 days after the expiration of a
33 stay to have the appointment vacated;

34 (g) in the case of a person who is an individual:

35 (1) the person's death;

36 (2) the appointment of a guardian or general conservator for
37 the person; or

38 (3) a judicial determination that the person has otherwise
39 become incapable of performing the person's duties as a general
40 partner under the partnership agreement;

1 (h) in the case of a person that is a trust or is acting as a
2 general partner by virtue of being a trustee of a trust, distribution
3 of the trust's entire transferable interest in the limited
4 partnership, but not merely by reason of the substitution of a
5 successor trustee;

6 (i) in the case of a person that is an estate or is acting as a
7 general partner by virtue of being a personal representative of an
8 estate, distribution of the estate's entire transferable interest in
9 the limited partnership, but not merely by reason of the
10 substitution of a successor personal representative;

11 (j) termination of a general partner that is not an individual,
12 partnership, limited liability company, corporation, trust, or
13 estate; or

14 (k) the limited partnership's participation in a conversion or
15 merger under Article 11 (commencing with Section 15911.01), if
16 the limited partnership:

17 (1) is not the converted or surviving entity; or

18 (2) is the converted or surviving entity but, as a result of the
19 conversion or merger, the person ceases to be a general partner.

20 15906.04. (a) A person has the power to dissociate as a
21 general partner at any time, rightfully or wrongfully, by express
22 will pursuant to subdivision (a) of Section 15906.03.

23 (b) A person's dissociation as a general partner is wrongful
24 only if:

25 (1) it is in breach of an express provision of the partnership
26 agreement; or

27 (2) it occurs before the termination of the limited partnership,
28 and:

29 (A) the person withdraws as a general partner by express will;

30 (B) the person is expelled as a general partner by judicial
31 determination under subdivision (e) of Section 15906.03;

32 (C) the person is dissociated as a general partner by becoming
33 a debtor in bankruptcy; or

34 (D) in the case of a person that is not an individual, trust other
35 than a business trust, or estate, the person is expelled or
36 otherwise dissociated as a general partner because it willfully
37 dissolved or terminated.

38 (c) A person that wrongfully dissociates as a general partner is
39 liable to the limited partnership and, subject to Section 15910.01,
40 to the other partners for damages caused by the dissociation. The

1 liability is in addition to any other obligation of the general
2 partner to the limited partnership or to the other partners.

3 15906.05. (a) Upon a person's dissociation as a general
4 partner:

5 (1) the person's right to participate as a general partner in the
6 management and conduct of the partnership's activities
7 terminates;

8 (2) the person's duty of loyalty as a general partner under
9 paragraph (3) of subdivision (b) of Section 15904.08 terminates;

10 (3) the person's duty of loyalty as a general partner under
11 paragraphs (1) and (2) of subdivision (b) of Section 15904.08 and
12 duty of care under subdivision (c) of Section 15904.08 continue
13 only with regard to matters arising and events occurring before
14 the person's dissociation as a general partner;

15 (4) the person may sign and deliver to the Secretary of State
16 for filing a statement of dissociation pertaining to the person and,
17 at the request of the limited partnership, shall sign an amendment
18 to the certificate of limited partnership which states that the
19 person has dissociated; and

20 (5) subject to Section 15907.04 and Article 11 (commencing
21 with Section 15911.01), any transferable interest owned by the
22 person immediately before dissociation in the person's capacity
23 as a general partner is owned by the person as a mere transferee.

24 (b) A person's dissociation as a general partner does not of
25 itself discharge the person from any obligation to the limited
26 partnership or the other partners which the person incurred while
27 a general partner.

28 15906.06. (a) After a person is dissociated as a general
29 partner and before the limited partnership is dissolved, converted
30 under Article 11 (commencing with Section 15911.01), or
31 merged out of existence under that article, the limited partnership
32 is bound by an act of the person only if:

33 (1) the act would have bound the limited partnership under
34 Section 15904.02 before the dissociation; and

35 (2) at the time the other party enters into the transaction:

36 (A) less than two years has passed since the dissociation; and

37 (B) the other party does not have notice of the dissociation and
38 reasonably believes that the person is a general partner.

1 (b) If a limited partnership is bound under subdivision (a), the
2 person dissociated as a general partner which caused the limited
3 partnership to be bound is liable:

4 (1) to the limited partnership for any damage caused to the
5 limited partnership arising from the obligation incurred under
6 subdivision (a); and

7 (2) if a general partner or another person dissociated as a
8 general partner is liable for the obligation, to the general partner
9 or other person for any damage caused to the general partner or
10 other person arising from the liability.

11 15906.07. (a) A person's dissociation as a general partner
12 does not of itself discharge the person's liability as a general
13 partner for an obligation of the limited partnership incurred
14 before dissociation. Except as otherwise provided in subdivisions
15 (b) and (c), the person is not liable for a limited partnership's
16 obligation incurred after dissociation.

17 (b) A person whose dissociation as a general partner resulted
18 in a dissolution and winding up of the limited partnership's
19 activities is liable to the same extent as a general partner under
20 Section 15904.04 on an obligation incurred by the limited
21 partnership under Section 15908.04.

22 (c) A person that has dissociated as a general partner but
23 whose dissociation did not result in a dissolution and winding up
24 of the limited partnership's activities is liable on a transaction
25 entered into by the limited partnership after the dissociation only
26 if:

27 (1) a general partner would be liable on the transaction; and
28 (2) at the time the other party enters into the transaction:
29 (A) less than two years has passed since the dissociation; and
30 (B) the other party does not have notice of the dissociation and
31 reasonably believes that the person is a general partner.

32 (d) By agreement with a creditor of a limited partnership and
33 the limited partnership, a person dissociated as a general partner
34 may be released from liability for an obligation of the limited
35 partnership.

36 (e) A person dissociated as a general partner is released from
37 liability for an obligation of the limited partnership if the limited
38 partnership's creditor, with notice of the person's dissociation as
39 a general partner but without the person's consent, agrees to a

1 material alteration in the nature or time of payment of the
2 obligation.

3
4 Article 7. Transferable Interests and Rights of Transferees and
5 Creditors
6

7 15907.01. The only interest of a partner which is transferable
8 is the partner's transferable interest. A transferable interest is
9 personal property.

10 15907.02. (a) A transfer, in whole or in part, of a partner's
11 transferable interest:

12 (1) is permissible;

13 (2) does not by itself cause the partner's dissociation or a
14 dissolution and winding up of the limited partnership's activities;
15 and

16 (3) does not, as against the other partners or the limited
17 partnership, entitle the transferee to participate in the
18 management or conduct of the limited partnership's activities, to
19 require access to information concerning the limited
20 partnership's transactions except as otherwise provided in
21 subdivision (c), or to inspect or copy the required information or
22 the limited partnership's other records or to exercise any other
23 rights or powers of a partner.

24 (b) A transferee has a right to receive, in accordance with the
25 transfer, distributions to which the transferor would otherwise be
26 entitled.

27 (c) A transferee is entitled to an account of the limited
28 partnership's transactions only upon the dissolution and winding
29 up of the limited partnership.

30 (d) Upon transfer, the transferor retains the rights of a partner
31 other than the interest in distributions transferred and retains all
32 duties and obligations of a partner.

33 (e) A limited partnership need not give effect to a transferee's
34 rights under this section until the limited partnership has notice
35 of the transfer.

36 (f) A transfer of a partner's transferable interest in the limited
37 partnership in violation of a restriction on transfer contained in
38 the partnership agreement is ineffective as to a person having
39 notice of the restriction at the time of transfer.

(g) A transferee that becomes a partner with respect to a transferable interest is liable for the transferor's obligations under Sections 15905.02 and 15905.09. However, the transferee is not obligated for liabilities unknown to the transferee at the time the transferee became a partner.

15907.03. (a) On application to a court of competent jurisdiction by any judgment creditor of a partner or transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of a transferee. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.

(b) A charging order constitutes a lien on the judgment debtor's transferable interest. The court may order a foreclosure upon the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

(c) At any time before foreclosure, an interest charged may be redeemed:

- (1) by the judgment debtor;
- (2) with property other than limited partnership property, by one or more of the other partners; or
- (3) with limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

(d) This chapter does not deprive any partner or transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

(e) This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.

(f) No creditor of a partner shall have any right to obtain possession or otherwise exercise legal or equitable remedies with respect to the property of the limited partnership.

15907.04. If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in Section 15907.02 and, for the

1 purposes of settling the estate, may exercise the rights of a
2 current limited partner under Section 15903.04.

3
4 Article 8. Dissolution

5
6 15908.01. Except as otherwise provided in Section 15908.02,
7 a limited partnership is dissolved, and its activities must be
8 wound up, only upon the occurrence of any of the following:

9 (a) the happening of an event specified in the partnership
10 agreement;

11 (b) the consent of all general partners and of limited partners
12 owning a majority of the rights to receive distributions as limited
13 partners at the time the consent is to be effective;

14 (c) after the dissociation of a person as a general partner:

15 (1) if the limited partnership has at least one remaining general
16 partner, and a consent to dissolve the limited partnership is given
17 within 90 days after the dissociation by partners owning a
18 majority of the rights to receive distributions as partners at the
19 time the consent is to be effective; or

20 (2) if the limited partnership does not have a remaining
21 general partner, the passage of 90 days after the dissociation,
22 unless before the end of the period:

23 (A) consent to continue the activities of the limited partnership
24 and admit at least one general partner is given by limited partners
25 owning a majority of the rights to receive distributions as limited
26 partners at the time the consent is to be effective; and

27 (B) at least one person is admitted as a general partner in
28 accordance with the consent; or

29 (d) the passage of 90 days after the dissociation of the limited
30 partnership's last limited partner, unless before the end of the
31 period the limited partnership admits at least one limited partner.

32 15908.02. (a) On application by a partner, a court of
33 competent jurisdiction may order dissolution of a limited
34 partnership if it is not reasonably practicable to carry on the
35 activities of the limited partnership in conformity with the
36 partnership agreement.

37 (b) In any suit for judicial dissolution, the other partners may
38 avoid the dissolution of the limited partnership by purchasing for
39 cash the partnership interests owned by the partners so initiating
40 the proceeding (the "moving parties") at their fair market value.

1 In fixing the value, the amount of any damages resulting if the
2 initiation of the dissolution is a breach by any moving party or
3 parties of an agreement with the purchasing party or parties,
4 including, without limitation, the partnership agreement, may be
5 deducted from the amount payable to the moving party or parties.

6 (c) If the purchasing parties (1) elect to purchase the
7 partnership interests owned by the moving parties, (2) are unable
8 to agree with the moving parties upon the fair market value of the
9 partnership interests, and (3) give bond with sufficient security to
10 pay the estimated reasonable expenses, including attorneys' fees,
11 of the moving parties if the expenses are recoverable under
12 paragraph (3), the court, upon application of the purchasing
13 parties, either in the pending action or in a proceeding initiated in
14 the superior court of the proper county by the purchasing parties,
15 shall stay the winding up and dissolution proceeding and shall
16 proceed to ascertain and fix the fair market value of the
17 partnership interests owned by the moving parties.

18 (d) The court shall appoint three disinterested appraisers to
19 appraise the fair market value of the partnership interests owned
20 by the moving parties, and shall make an order referring the
21 matter to the appraisers so appointed for the purpose of
22 ascertaining that value. The order shall prescribe the time and
23 manner of producing evidence, if evidence is required. The
24 award of the appraisers or a majority of them, when confirmed
25 by the court, shall be final and conclusive upon all parties. The
26 court shall enter a decree that shall provide in the alternative for
27 winding up and dissolution of the limited partnership unless
28 payment is made for the partnership interests within the time
29 specified by the decree. If the purchasing parties do not make
30 payment for the partnership interests within the time specified,
31 judgment shall be entered against them and the surety or sureties
32 on the bond for the amount of the expenses, including attorneys'
33 fees, of the moving parties. Any member aggrieved by the action
34 of the court may appeal therefrom.

35 (e) If the purchasing parties desire to prevent the winding up
36 and dissolution of the limited partnership, they shall pay to the
37 moving parties the value of their partnership interests ascertained
38 and decreed within the time specified pursuant to this section, or,
39 in the case of an appeal, as fixed on appeal. On receiving that

1 payment or the tender thereof, the moving parties shall transfer
2 their partnership interests to the purchasing parties.

3 (f) For the purposes of this section, the valuation date shall be
4 the date upon which the action for judicial dissolution was
5 commenced. However, the court may, upon the hearing of a
6 motion by any party, and for good cause shown, designate some
7 other date as the valuation date.

8 15908.03. (a) A limited partnership continues after
9 dissolution only for the purpose of winding up its activities.

10 (b) In winding up its activities, the limited partnership:

11 (1) may amend its certificate of limited partnership to state
12 that the limited partnership is dissolved, preserve the limited
13 partnership business or property as a going concern for a
14 reasonable time, prosecute and defend actions and proceedings,
15 whether civil, criminal, or administrative, transfer the limited
16 partnership's property, settle disputes by mediation or arbitration,
17 file a statement of termination as provided in Section 15902.03,
18 and perform other necessary acts; and

19 (2) shall discharge the limited partnership's liabilities, settle
20 and close the limited partnership's activities, and marshal and
21 distribute the assets of the partnership.

22 (c) If a dissolved limited partnership does not have a general
23 partner, a person to wind up the dissolved limited partnership's
24 activities may be appointed by the consent of limited partners
25 owning a majority of the rights to receive distributions as limited
26 partners at the time the consent is to be effective. A person
27 appointed under this subdivision:

28 (1) has the powers of a general partner under Section
29 15908.04; and

30 (2) shall promptly amend the certificate of limited partnership
31 to state:

32 (A) that the limited partnership does not have a general
33 partner;

34 (B) the name of the person that has been appointed to wind up
35 the limited partnership; and

36 (C) the street and mailing address of the person.

37 (d) On the application of any partner, the appropriate court
38 may order judicial supervision of the winding up, including the
39 appointment of a person to wind up the dissolved limited
40 partnership's activities, if:

1 (1) a limited partnership does not have a general partner and
2 within a reasonable time following the dissolution no person has
3 been appointed pursuant to subdivision (c); or

4 (2) the applicant establishes other good cause.

5 (e) Unless otherwise provided in the partnership agreement,
6 the limited partners winding up the affairs of the partnership
7 pursuant to this section shall be entitled to reasonable
8 compensation.

9 15908.04. (a) A limited partnership is bound by a general
10 partner's act after dissolution which:

11 (1) is appropriate for winding up the limited partnership's
12 activities; or

13 (2) would have bound the limited partnership under Section
14 15904.02 before dissolution, if, at the time the other party enters
15 into the transaction, the other party does not have notice of the
16 dissolution.

17 (b) A person dissociated as a general partner binds a limited
18 partnership through an act occurring after dissolution if:

19 (1) at the time the other party enters into the transaction:

20 (A) less than two years has passed since the dissociation; and

21 (B) the other party does not have notice of the dissociation and
22 reasonably believes that the person is a general partner; and

23 (2) the act:

24 (A) is appropriate for winding up the limited partnership's
25 activities; or

26 (B) would have bound the limited partnership under Section
27 15904.02 before dissolution and at the time the other party enters
28 into the transaction the other party does not have notice of the
29 dissolution.

30 15908.05. (a) If a general partner having knowledge of the
31 dissolution causes a limited partnership to incur an obligation
32 under subdivision (a) of Section 15908.04 by an act that is not
33 appropriate for winding up the partnership's activities, the
34 general partner is liable:

35 (1) to the limited partnership for any damage caused to the
36 limited partnership arising from the obligation; and

37 (2) if another general partner or a person dissociated as a
38 general partner is liable for the obligation, to that other general
39 partner or person for any damage caused to that other general
40 partner or person arising from the liability.

(b) If a person dissociated as a general partner causes a limited partnership to incur an obligation under subdivision (b) of Section 15908.04, the person is liable:

(1) to the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) if a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

15908.06. (a) A dissolved limited partnership may dispose of the known claims against it by following the procedure described in subdivision (b).

(b) A dissolved limited partnership may notify its known claimants of the dissolution in a record. The notice must:

(1) specify the information required to be included in a claim;

(2) provide a mailing address to which the claim is to be sent;

(3) state the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant;

(4) state that the claim will be barred if not received by the deadline; and

(5) unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on Section 15904.04.

(c) A claim against a dissolved limited partnership is barred if the requirements of subdivision (b) are met and:

(1) the claim is not received by the specified deadline; or

(2) in the case of a claim that is timely received but rejected in writing by the dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within 90 days after the receipt of a written notice of the rejection.

(d) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

15908.07. (a) A dissolved limited partnership may publish notice of its dissolution and request persons having claims

1 against the limited partnership to present them in accordance
2 with the notice.

3 (b) The notice must:

4 (1) be published at least once in a newspaper of general
5 circulation in the county in which the dissolved limited
6 partnership's principal office is located or, if it has none in this
7 State, in the county in which the limited partnership's designated
8 office is or was last located;

9 (2) describe the information required to be contained in a
10 claim and provide a mailing address to which the claim is to be
11 sent;

12 (3) state that a claim against the limited partnership is barred
13 unless an action to enforce the claim is commenced within four
14 years after publication of the notice; and

15 (4) unless the limited partnership has been throughout its
16 existence a limited liability limited partnership, state that the
17 barring of a claim against the limited partnership will also bar
18 any corresponding claim against any general partner or person
19 dissociated as a general partner which is based on Section
20 15904.04.

21 (c) If a dissolved limited partnership publishes a notice in
22 accordance with subdivision (b), the claim of each of the
23 following claimants is barred unless the claimant commences an
24 action to enforce the claim against the dissolved limited
25 partnership within four years after the publication date of the
26 notice:

27 (1) a claimant that did not receive notice in a record under
28 Section 15908.06;

29 (2) a claimant whose claim was timely sent to the dissolved
30 limited partnership but not acted on; and

31 (3) a claimant whose claim is contingent or based on an event
32 occurring after the effective date of dissolution.

33 (d) A claim not barred under this section may be enforced:

34 (1) against the dissolved limited partnership, to the extent of
35 its undistributed assets;

36 (2) if the assets have been distributed in liquidation, against a
37 partner or transferee to the extent of that person's proportionate
38 share of the claim or the limited partnership's assets distributed
39 to the partner or transferee in liquidation, whichever is less, but a
40 person's total liability for all claims under this paragraph does

1 not exceed the total amount of assets distributed to the person as
2 part of the winding up of the dissolved limited partnership; or

3 (3) against any person liable on the claim under Section
4 15904.04.

5 15908.08. If a claim against a dissolved limited partnership is
6 barred under Section 15908.06 or 15908.07, any corresponding
7 claim under Section 15904.04 is also barred.

8 15908.09. (a) In winding up a limited partnership's activities,
9 the assets of the limited partnership, including the contributions
10 required by this section, must be applied to satisfy the limited
11 partnership's obligations to creditors, including, to the extent
12 permitted by law, partners that are creditors.

13 (b) Any surplus remaining after the limited partnership
14 complies with subdivision (a) must be paid in cash as a
15 distribution.

16 (c) If a limited partnership's assets are insufficient to satisfy
17 all of its obligations under subdivision (a), with respect to each
18 unsatisfied obligation incurred when the limited partnership was
19 not a limited partnership, the following rules apply:

20 (1) Each person that was a general partner when the obligation
21 was incurred and that has not been released from the obligation
22 under Section 15906.07 shall contribute to the limited partnership
23 for the purpose of enabling the limited partnership to satisfy the
24 obligation. The contribution due from each of those persons is in
25 proportion to the right to receive distributions in the capacity of
26 general partner in effect for each of those persons when the
27 obligation was incurred.

28 (2) If a person does not contribute the full amount required
29 under paragraph (1) with respect to an unsatisfied obligation of
30 the limited partnership, the other persons required to contribute
31 by paragraph (1) on account of the obligation shall contribute the
32 additional amount necessary to discharge the obligation. The
33 additional contribution due from each of those other persons is in
34 proportion to the right to receive distributions in the capacity of
35 general partner in effect for each of those other persons when the
36 obligation was incurred.

37 (3) If a person does not make the additional contribution
38 required by paragraph (2), further additional contributions are
39 determined and due in the same manner as provided in that
40 paragraph.

1 (d) A person that makes an additional contribution under
2 paragraph (2) or (3) of subdivision (c) may recover from any
3 person whose failure to contribute under paragraph (1) or (2) of
4 subdivision (c) necessitated the additional contribution. A person
5 may not recover under this subdivision more than the amount
6 additionally contributed. A person's liability under this
7 subdivision may not exceed the amount the person failed to
8 contribute.

9 (e) The estate of a deceased individual is liable for the
10 person's obligations under this section.

11 (f) An assignee for the benefit of creditors of a limited
12 partnership or a partner, or a person appointed by a court to
13 represent creditors of a limited partnership or a partner, may
14 enforce a person's obligation to contribute under subdivision (c).

15
16 Article 9. Foreign Limited Partnership
17

18 15909.01. (a) The laws of the State or other jurisdiction
19 under which a foreign limited partnership is organized govern
20 relations among the partners of the foreign limited partnership
21 and between the partners and the foreign limited partnership and
22 the liability of partners as partners for an obligation of the foreign
23 limited partnership.

24 (b) A foreign limited partnership may not be denied a
25 certificate of registration by reason of any difference between the
26 laws of the jurisdiction under which the foreign limited
27 partnership is organized and the laws of this state.

28 (c) A certificate of registration does not authorize a foreign
29 limited partnership to engage in any business or exercise any
30 power that a limited partnership may not engage in or exercise in
31 this state.

32 15909.02. (a) A foreign limited partnership may apply for a
33 certificate of registration to transact business in this state by
34 delivering an application to the Secretary of State for filing. The
35 application must state:

36 (1) the name of the foreign limited partnership and, if the
37 name does not comply with Section 15901.08, an alternate name
38 adopted pursuant to subdivision (a) of Section 15909.05.

39 (2) the name of the state or other jurisdiction under whose law
40 the foreign limited partnership is organized;

(3) the street and mailing address of the foreign limited partnership's principal office and, if the laws of the jurisdiction under which the foreign limited partnership is organized require the foreign limited partnership to maintain an office in that jurisdiction, the street and mailing address of the required office;

(4) the name and street and mailing address of the foreign limited partnership's initial agent for service of process in this state;

(5) the name and street and mailing address of each of the foreign limited partnership's general partners; and

(6) whether the foreign limited partnership is a foreign limited liability limited partnership.

(b) A foreign limited partnership shall deliver with the completed application a certificate of existence or a record of similar import signed by the Secretary of State or other official having custody of the foreign limited partnership's publicly filed records in the state or other jurisdiction under whose law the foreign limited partnership is organized.

15909.03. (a) Activities of a foreign limited partnership which do not constitute transacting business in this state within the meaning of this article include:

(1) maintaining, defending, and settling an action or proceeding;

(2) holding meetings of its partners or carrying on any other activity concerning its internal affairs;

(3) maintaining accounts in financial institutions;

(4) maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities;

(5) selling through independent contractors;

(6) soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this State before they become contracts;

(7) creating or acquiring indebtedness, mortgages, or security interests in real or personal property;

(8) securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;

1 (9) conducting an isolated transaction that is completed within
2 180 days and is not one in the course of similar transactions of a
3 like manner; and

4 (10) transacting business in interstate commerce.

5 (b) For purposes of this article, the ownership in this state of
6 income-producing real property or tangible personal property,
7 other than property excluded under subdivision (a), constitutes
8 transacting business in this state.

9 (c) This section does not apply in determining the contacts or
10 activities that may subject a foreign limited partnership to service
11 of process, taxation, or regulation under any other law of this
12 state.

13 15904.04. Unless the Secretary of State determines that an
14 application for a certificate of registration does not comply with
15 the filing requirements of this chapter, the Secretary of State,
16 upon payment of all filing fees, shall file the application, prepare,
17 sign and file a certificate of registration to transact business in
18 this state, and send a copy of the filed certificate, together with a
19 receipt for the fees, to the foreign limited partnership or its
20 representative.

21 15904.05. (a) A foreign limited partnership whose name does
22 not comply with Section 15901.08 may not obtain a certificate of
23 registration until it adopts, for the purpose of transacting business
24 in this state, an alternate name that complies with Section
25 15901.08.

26 (b) If a foreign limited partnership authorized to transact
27 business in this State changes its name to one that does not
28 comply with Section 15901.08, it may not thereafter transact
29 business in this state until it complies with subdivision (a) and
30 obtains an amended certificate of registration.

31 15909.06. (a) In order to cancel its certificate of registration
32 to transact business in this state, a foreign limited partnership
33 must deliver to the Secretary of State for filing a notice of
34 cancellation. The certificate is canceled when the notice becomes
35 effective under Section 15902.06.

36 (b) A foreign limited partnership transacting business in this
37 state may not maintain an action or proceeding in this state unless
38 it has a certificate of registration to transact business in this state.

39 (c) The failure of a foreign limited partnership to have a
40 certificate of registration to transact business in this state does

1 not impair the validity of a contract or act of the foreign limited
2 partnership or prevent the foreign limited partnership from
3 defending an action or proceeding in this state.

4 (d) A partner of a foreign limited partnership is not liable for
5 the obligations of the foreign limited partnership solely by reason
6 of the foreign limited partnership's having transacted business in
7 this state without a certificate of registration.

8 (e) If a foreign limited partnership transacts business in this
9 state without a certificate of registration or cancels its certificate
10 of registration, it appoints the Secretary of State as its agent for
11 service of process for rights of action arising out of the
12 transaction of business in this state.

13 15909.07. The Attorney General may maintain an action to
14 restrain a foreign limited partnership from transacting business in
15 this state in violation of this article.

16 17 Article 10. Actions by Partners 18

19 15910.01. (a) Subject to subdivision (b), a partner may
20 maintain a direct action against the partnership or another partner
21 for legal or equitable relief, with or without an accounting as to
22 partnership's activities, to enforce the rights and otherwise
23 protect the interests of the partner, including rights and interests
24 under the partnership agreement or this chapter or arising
25 independently of the partnership relationship.

26 (b) A partner bringing a direct action under this section is
27 required to plead and prove an actual or threatened injury that is
28 not solely the result of an injury suffered or threatened to be
29 suffered by the limited partnership.

30 (c) The accrual of, and any time limitation on, a right of action
31 for a remedy under this section is governed by other law. A right
32 to an accounting upon a dissolution and winding up does not
33 revive a claim barred by law.

34 15910.02. A partner may bring a derivative action to enforce
35 a right of a limited partnership if:

36 (1) the partner first makes a demand on the general partners,
37 requesting that they cause the limited partnership to bring an
38 action to enforce the right, and the general partners do not bring
39 the action within a reasonable time; or

40 (2) a demand would be futile.

1 1510.03. (a) A derivative action may be maintained only by a
2 person that is a partner at the time the action is commenced and:

3 (1) that was a partner when the conduct giving rise to action
4 occurred; or

5 (2) whose status as a partner devolved upon the person by
6 operation of law or pursuant to the terms of the partnership
7 agreement from a person that was a partner at the time of that
8 conduct.

9 (b) Notwithstanding the foregoing, any partner who does not
10 meet the foregoing requirements may nevertheless be allowed in
11 the discretion of the court to maintain the action on a preliminary
12 showing to and determination by the court, by motion and after a
13 hearing, at which the court shall consider such evidence, by
14 affidavit or testimony, as it deems material that (1) there is a
15 strong prima facie case in favor of the claim asserted on behalf of
16 the partnership, (2) no other similar action has been or is likely to
17 be instituted, (3) the plaintiff acquired the shares before there was
18 disclosure to the public of to the plaintiff of the wrongdoing of
19 which plaintiff complains, (4) unless the action can be
20 maintained the defendant may retain a gain derived from the
21 defendant's willful breach of a fiduciary duty, and (5) the
22 requested relief will not result in unjust enrichment of the
23 partnership or any partner.

24 15910.04. In a derivative action, the complaint must state with
25 particularity:

26 (1) the date and content of plaintiff's demand and the general
27 partners' response to the demand; or

28 (2) why demand is excused as futile.

29 15910.05. (a) Except as otherwise provided in subdivision
30 (b):

31 (1) any proceeds or other benefits of a derivative action,
32 whether by judgment, compromise, or settlement, belong to the
33 limited partnership and not to the derivative plaintiff;

34 (2) if the derivative plaintiff receives any of those proceeds,
35 the derivative plaintiff shall immediately remit them to the
36 limited partnership.

37 (b) If a derivative action is successful in whole or in part, the
38 court may award the plaintiff reasonable expenses, including
39 reasonable attorney's fees, from the recovery of the limited
40 partnership.

1 15910.06. (a) In any derivative action, at any time within 30
2 days after service of summons upon the partnership or the
3 general partner, the partnership or general partner may move the
4 court for an order, upon notice and hearing, requiring the plaintiff
5 to furnish a bond as hereinafter provided. The motion shall be
6 based upon one or both of the following grounds:

7 (1) That there is no reasonably possibility that the prosecution
8 of the cause of action alleged in the complaint against the moving
9 party will benefit the partnership or its partners.

10 (2) That the moving party, if other than the partnership, did
11 not participate in the transaction complained of in any capacity.
12 The court on application of the partnership or the general partner
13 may, for good cause shown, extend the 30-day period for an
14 addition period or periods not exceeding 60-days.

15 (b) At the hearing upon any motion pursuant to the subdivision
16 (a) the court shall consider such evidence, written or oral, by
17 witnesses or affidavit, as may be material (1) to the ground or
18 grounds upon which the motion is based, or (2) to a
19 determination of the probable reasonable expenses, including
20 attorneys' fees, of the partnership and the general partner which
21 will be incurred in defense of the action. If the court determines,
22 after hearing the evidence adduced by the parties, that the
23 moving party has established a probability in support of any of
24 the grounds upon which the motion is based, the court shall fix
25 the amount of the bond, not to exceed fifty thousand dollars
26 (\$50,000), to be furnished by the plaintiff for reasonable
27 expenses, including attorneys fees, which may be incurred by the
28 moving party and the partnership in connection with the action,
29 including expenses for which the partnership may become liable
30 pursuant to subdivision (c) of Section 15904.06. A ruling by the
31 court on the motion shall not be a determination of any issue in
32 the action or of the merits thereof. If the court, upon motion,
33 makes a determination that a bond shall be furnished by the
34 plaintiff as to any one or more defendants, the action shall be
35 dismissed as to the defendant or defendants, unless the bond
36 required by the court has been furnished within such reasonable
37 time as may be fixed by the court.

38 (c) If the plaintiff shall, either before or after a motion is made
39 pursuant to subdivision (a), or any order or determination
40 pursuant to the motion, furnish a bond in the aggregate amount of

1 fifty thousand dollars (\$50,000) to secure the reasonable
2 expenses of the parties entitled to make the motion, the plaintiff
3 has complied with the requirements of this Section and with any
4 order for a bond theretofore made, any such motion then pending
5 shall be dismissed and no further additional bond shall be
6 required.

7 (d) If a motion is filed pursuant to subdivision (a), no
8 pleadings need to be filed by the partnership or any other
9 defendant and the prosecution of the action shall be stayed until
10 10 days after the motion has been disposed of.

11
12 Article 11. Conversion and Merger
13

14 15911.01. In this Article:

15 (1) "Constituent limited partnership" means a constituent
16 organization that is a limited partnership.

17 (2) "Constituent organization" means an organization that is
18 party to a merger.

19 (3) "Converted organization" means the organization into
20 which a converting organization converts pursuant to Sections
21 15911.02 to 15911.05, inclusive.

22 (4) "Converting limited partnership" means a converting
23 organization that is a limited partnership.

24 (5) "Converting organization" means an organization that
25 converts into another organization pursuant to Section 15911.02.

26 (6) "General partner" means a general partner of a limited
27 partnership.

28 (7) "Governing statute" of an organization means the statute
29 that governs the organization's internal affairs.

30 (8) "Organization" means a general partnership, including a
31 limited liability partnership; limited partnership, including a
32 limited liability limited partnership; limited liability company;
33 business trust; corporation; or any other person having a
34 governing statute. The term includes domestic and foreign
35 organizations whether or not organized for profit.

36 (9) "Organizational documents" means:

37 (A) for a domestic or foreign general partnership, its
38 partnership agreement;

39 (B) for a limited partnership or foreign limited partnership, its
40 certificate of limited partnership and partnership agreement;

1 (C) for a domestic or foreign limited liability company, its
2 articles of organization and operating agreement, or comparable
3 records as provided in its governing statute;

4 (D) for a business trust, its agreement of trust and declaration
5 of trust;

6 (E) for a domestic or foreign corporation for profit, its articles
7 of incorporation, bylaws, and other agreements among its
8 shareholders which are authorized by its governing statute, or
9 comparable records as provided in its governing statute; and

10 (F) for any other organization, the basic records that create the
11 organization and determine its internal governance and the
12 relations among the persons that own it, have an interest in it, or
13 are members of it.

14 (10) “Personal liability” means personal liability for a debt,
15 liability or other obligation of an organization which is imposed
16 on a person that co-owns, has an interest in, or is a member of the
17 organization:

18 (A) by the organization’s governing statute solely by reason of
19 the person co-owning, having an interest in, or being a member
20 of the organization; or

21 (B) by the organization’s organizational documents under a
22 provision of the organization’s governing statute authorizing
23 those documents to make one or more specified persons liable for
24 all or specified debts, liabilities, and other obligations of the
25 organization solely by reason of the person or persons
26 co-owning, having an interest in, or being a member of the
27 organization.

28 (11) “Surviving organization” means an organization into
29 which one or more other organizations are merged. A surviving
30 organization may preexist the merger or be created by the
31 merger.

32 15911.02. (a) An organization other than a limited
33 partnership may convert to a limited partnership, and a limited
34 partnership may convert to another organization pursuant to this
35 section and Sections 15911.03 to 15911.05, inclusive, and a plan
36 of conversion, if:

37 (1) the other organization’s governing statute authorizes the
38 conversion;

39 (2) the conversion is not prohibited by the law of the
40 jurisdiction that enacted the governing statute; and

1 (3) the other organization complies with its governing statute
2 in effecting the conversion.

3 (b) A plan of conversion must be in a record and must include:

4 (1) the name and form of the organization before conversion;

5 (2) the name and form of the organization after conversion;

6 and

7 (3) the terms and conditions of the conversion, including the
8 manner and basis for converting interests in the converting
9 organization into any combination of money, interests in the
10 converted organization, and other consideration; and

11 (4) the organizational documents of the converted
12 organization.

13 15911.03. (a) Subject to Section 15911.10, a plan of
14 conversion must be consented to by all the general partners and a
15 majority in interest of each class of limited partners of a
16 converting limited partnership.

17 (b) Subject to Section 15911.10 and any dissenter's rights
18 provided in Article 11.5 (commencing with Section 15911.14),
19 after a conversion is approved, and at any time before a filing is
20 made under Section 15911.04, a converting limited partnership
21 may amend the plan or abandon the planned conversion:

22 (1) as provided in the plan; and

23 (2) except as prohibited by the plan, by the same consent as
24 was required to approve the plan.

25 15911.04. (a) After a plan of conversion is approved:

26 (1) a converting limited partnership shall deliver to the
27 Secretary of State for filing articles of conversion, which must
28 include:

29 (A) a statement that the limited partnership has been converted
30 into another organization;

31 (B) the name and form of the organization and the jurisdiction
32 of its governing statute;

33 (C) the date the conversion is effective under the governing
34 statute of the converted organization;

35 (D) a statement that the conversion was approved as required
36 by this chapter;

37 (E) a statement that the conversion was approved as required
38 by the governing statute of the converted organization; and

39 (F) if the converted organization is a foreign organization not
40 authorized to transact business in this state, the street and mailing

1 address of an office which the Secretary of State may use for the
2 purposes of subdivision (c) of Section 15911.05; and

3 (2) if the converting organization is not a converting limited
4 partnership, the converting organization shall deliver to the
5 Secretary of State for filing a certificate of limited partnership,
6 which must include, in addition to the information required by
7 Section 15902.01:

8 (A) a statement that the limited partnership was converted
9 from another organization;

10 (B) the name and form of the organization and the jurisdiction
11 of its governing statute; and

12 (C) a statement that the conversion was approved in a manner
13 that complied with the organization's governing statute.

14 (b) A conversion becomes effective:

15 (1) if the converted organization is a limited partnership, when
16 the certificate of limited partnership takes effect; and

17 (2) if the converted organization is not a limited partnership,
18 as provided by the governing statute of the converted
19 organization.

20 15911.05. (a) An organization that has been converted
21 pursuant to this article is for all purposes the same entity that
22 existed before the conversion.

23 (b) When a conversion takes effect:

24 (1) all property owned by the converting organization remains
25 vested in the converted organization;

26 (2) all debts, liabilities, and other obligations of the converting
27 organization continue as obligations of the converted
28 organization;

29 (3) an action or proceeding pending by or against the
30 converting organization may be continued as if the conversion
31 had not occurred;

32 (4) except as prohibited by other law, all of the rights,
33 privileges, immunities, powers, and purposes of the converting
34 organization remain vested in the converted organization;

35 (5) except as otherwise provided in the plan of conversion, the
36 terms and conditions of the plan of conversion take effect; and

37 (6) except as otherwise agreed, the conversion does not
38 dissolve a converting limited partnership for the purposes of
39 Article 8 (commencing with Section 15908.01).

1 (c) A converted organization that is a foreign organization
2 consents to the jurisdiction of the courts of this state to enforce
3 any obligation owed by the converting limited partnership, if
4 before the conversion the converting limited partnership was
5 subject to suit in this state on the obligation. A converted
6 organization that is a foreign organization and not authorized to
7 transact business in this state appoints the Secretary of State as its
8 agent for service of process for purposes of enforcing an
9 obligation under this subdivision. Service on the Secretary of
10 State under this subdivision is made in the same manner and with
11 the same consequences as in subdivisions (c) and (d) of Section
12 15901.17.

13 15911.055. (a) Whenever a limited partnership or other
14 business entity having any real property in this state converts into
15 a limited partnership or another business entity pursuant to the
16 laws of this state or of the state or place in which the limited
17 partnership or other business entity was organized, and the laws
18 of the state or place or organization, including this state, of the
19 converting limited partnership or other converting entity provide
20 substantially that the conversion vests in the converted limited
21 partnership or other converted entity all the real property of the
22 converting limited partnership or other converting entity, the
23 filing for record in the office of the county recorder of any
24 county in this state in which any of the real property of the
25 converting limited partnership or other converting entity is
26 located of either (1) the articles of conversion or statement of
27 partnership authority, a certificate of limited partnership, articles
28 of incorporation, or articles of organization complying with
29 Section 15911.04, in the form prescribed and certified by the
30 Secretary of State, or (2) a copy of the articles of conversion or a
31 statement of partnership authority, certificate of limited
32 partnership, articles of organization, articles or certificate of
33 incorporation, or other certificate or document evidencing the
34 creation of a foreign other business entity or foreign limited
35 partnership by conversion, containing a statement of conversion,
36 certified by the Secretary of State or an authorized public official
37 of the state or place pursuant to the laws of which the conversion
38 is effected, shall evidence record ownership in the converted
39 limited partnership or other converted entity of all interest of the

1 converting limited partnership or other converting entity in and to
2 the real property located in that county.

3 (b) A filed and, if appropriate, recorded articles of conversion
4 or a statement of partnership authority, certificate of limited
5 partnership, articles of organization, articles or certificate of
6 incorporation, or other certificate evidencing the creation of a
7 foreign other business entity or foreign limited partnership by
8 conversion, containing a statement of conversion, filed pursuant
9 to subdivision (a) of Section 15911.04, stating the name of the
10 converting limited partnership or other converting entity in
11 whose name property was held before the conversion and the
12 name of the converted entity or converted limited partnership,
13 but not containing all of the other information required by
14 Section 15911.04, operates with respect to the entities named to
15 the extent provided in subdivision (a).

16 (c) Recording of the articles of conversion, or a statement of
17 partnership authority, certificate of limited partnership, articles of
18 organization, articles or certificate of incorporation, or other
19 certificate evidencing the creation of an other business entity or a
20 limited partnership by conversion, containing a statement of
21 conversion, in accordance with subdivision (a), shall create, in
22 favor of bona fide purchasers or encumbrances for value, a
23 conclusive presumption that the conversion was validly
24 completed.

25 15911.06. (a) A limited partnership may merge with one or
26 more other constituent organizations pursuant to this section and
27 Sections 15911.07 to 15911.09, inclusive, and a plan of merger,
28 if:

29 (1) the governing statute of each the other organizations
30 authorizes the merger;

31 (2) the merger is not prohibited by the law of a jurisdiction
32 that enacted any of those governing statutes; and (3) each of the
33 other organizations complies with its governing statute in
34 effecting the merger.

35 (b) A plan of merger must be in a record and must include:

36 (1) the name and form of each constituent organization;

37 (2) the name and form of the surviving organization and, if the
38 surviving organization is to be created by the merger, a statement
39 to that effect;

1 (3) the terms and conditions of the merger, including the
2 manner and basis for converting the interests in each constituent
3 organization into any combination of money, interests in the
4 surviving organization, and other consideration;

5 (4) if the surviving organization is to be created by the merger,
6 the surviving organization's organizational documents; and

7 (5) if the surviving organization is not to be created by the
8 merger, any amendments to be made by the merger to the
9 surviving organization's organizational documents.

10 15911.07. (a) Subject to Section 15911.10, a plan of merger
11 must be consented to by all of the general partners and a majority
12 in interest of each class of limited partners of a constituent
13 limited partnership.

14 (b) Subject to Section 15911.10 and any dissenters' rights as
15 provided in Article 11.5 (commencing with Section 15911.14),
16 after a merger is approved, and at any time before a filing is
17 made under Section 15911.08, a constituent limited partnership
18 may amend the plan or abandon the planned merger:

19 (1) as provided in the plan; and

20 (2) except as prohibited by the plan, with the same consent as
21 was required to approve the plan.

22 15911.08. (a) After each constituent organization has
23 approved a merger, articles of merger must be signed on behalf
24 of:

25 (1) each preexisting constituent limited partnership, by each
26 general partner listed in the certificate of limited partnership; and

27 (2) each other preexisting constituent organization, by an
28 authorized representative.

29 (b) The articles of merger must include:

30 (1) the name and form of each constituent organization and the
31 jurisdiction of its governing statute;

32 (2) the name and form of the surviving organization, the
33 jurisdiction of its governing statute, and, if the surviving
34 organization is created by the merger, a statement to that effect;

35 (3) the date the merger is effective under the governing statute
36 of the surviving organization;

37 (4) if the surviving organization is to be created by the merger:

38 (A) if it will be a limited partnership, the limited partnership's
39 certificate of limited partnership; or

1 (B) if it will be an organization other than a limited
2 partnership, the organizational document that creates the
3 organization;

4 (5) if the surviving organization preexists the merger, any
5 amendments provided for in the plan of merger for the
6 organizational document that created the organization;

7 (6) a statement as to each constituent organization that the
8 merger was approved as required by the organization's governing
9 statute;

10 (7) if the surviving organization is a foreign organization not
11 authorized to transact business in this state, the street and mailing
12 address of an office which the Secretary of State may use for the
13 purposes of subdivision (b) of Section 15911.09; and

14 (8) any additional information required by the governing
15 statute of any constituent organization.

16 (c) Each constituent limited partnership shall deliver the
17 articles of merger for filing in the office of the Secretary of State.

18 (d) A merger becomes effective under this article:

19 (1) if the surviving organization is a limited partnership, upon
20 the later of:

21 (A) compliance with subdivision (c); or

22 (B) subject to subdivision (c) of Section 15902.06, as specified
23 in the articles of merger; or

24 (2) if the surviving organization is not a limited partnership, as
25 provided by the governing statute of the surviving organization.

26 15911.09. (a) When a merger becomes effective:

27 (1) the surviving organization continues or comes into
28 existence;

29 (2) each constituent organization that merges into the
30 surviving organization ceases to exist as a separate entity;

31 (3) all property owned by each constituent organization that
32 ceases to exist vests in the surviving organization;

33 (4) all debts, liabilities, and other obligations of each
34 constituent organization that ceases to exist continue as
35 obligations of the surviving organization;

36 (5) an action or proceeding pending by or against any
37 constituent organization that ceases to exist may be continued as
38 if the merger had not occurred;

39 (6) except as prohibited by other law, all of the rights,
40 privileges, immunities, powers, and purposes of each constituent

1 organization that ceases to exist vest in the surviving
2 organization;

3 (7) except as otherwise provided in the plan of merger, the
4 terms and conditions of the plan of merger take effect;

5 (8) except as otherwise agreed, if a constituent limited
6 partnership ceases to exist, the merger does not dissolve the
7 limited partnership for the purposes of Article 8 (commencing
8 with Section 15908.01);

9 (9) if the surviving organization is created by the merger:

10 (A) if it is a limited partnership, the certificate of limited
11 partnership becomes effective; or

12 (B) if it is an organization other than a limited partnership, the
13 organizational document that creates the organization becomes
14 effective; and

15 (10) if the surviving organization preexists the merger, any
16 amendments provided for in the articles of merger for the
17 organizational document that created the organization become
18 effective.

19 (b) A surviving organization that is a foreign organization
20 consents to the jurisdiction of the courts of this State to enforce
21 any obligation owed by a constituent organization, if before the
22 merger the constituent organization was subject to suit in this
23 state on the obligation. A surviving organization that is a foreign
24 organization and not authorized to transact business in this state
25 appoints the Secretary of State as its agent for service of process
26 for the purposes of enforcing an obligation under this
27 subdivision. Service on the Secretary of State under this
28 subdivision is made in the same manner and with the same
29 consequences as in subdivisions (c) and (d) of Section 15901.17.

30 15911.095. (a) Whenever a domestic or foreign limited
31 partnership or other business entity having any real property in
32 this state merges with another limited partnership or other
33 business entity pursuant to the laws of this state or of the state or
34 place in which any constituent limited partnership or constituent
35 other business entity was organized, and the laws of the state or
36 place of organization (including this state) of any disappearing
37 limited partnership or disappearing other business entity provide
38 substantially that the making and filing of the agreement of
39 merger or articles of merger vests in the surviving limited
40 partnership or surviving other business entity all the real property

1 of any disappearing limited partnership and disappearing other
2 business entity, the filing for record in the office of the county
3 recorder of any county in this state in which any of the real
4 property of the disappearing limited partnership or disappearing
5 other business entity is located of either (a) the articles of merger
6 certified by the Secretary of State, or other certificate prescribed
7 by the Secretary of State, or (b) a copy of the agreement of
8 merger or certificate of merger, certified by the Secretary of State
9 or an authorized public official of the state or place pursuant to
10 the laws of which the merger is effected, shall evidence record
11 ownership in the surviving limited partnership or surviving other
12 business entity of all interest of such disappearing limited
13 partnership or disappearing other business entity in and to the
14 real property located in that county.

15 (b) Recording of the articles of merger in accordance with this
16 section shall create, in favor of bona fide purchasers or
17 encumbrances for value, a conclusive presumption that the
18 merger was validly completed.

19 15911.10. (a) If a partner of a converting or constituent
20 limited partnership will have personal liability with respect to a
21 converted or surviving organization, approval and amendment of
22 a plan of conversion or merger are ineffective without the
23 consent of the partner, unless:

24 (1) the limited partnership's partnership agreement provides
25 for the approval of the conversion or merger with the consent of
26 fewer than all the partners; and

27 (2) the partner has consented to the provision of the
28 partnership agreement.

29 (b) An amendment to a certificate of limited partnership which
30 deletes a statement that the limited partnership is a limited
31 liability limited partnership is ineffective without the consent of
32 each general partner unless:

33 (1) the limited partnership's partnership agreement provides
34 for the amendment with the consent of less than all the general
35 partners; and

36 (2) each general partner that does not consent to the
37 amendment has consented to the provision of the partnership
38 agreement.

39 (c) A partner does not give the consent required by subdivision

40 (a) or (b) merely by consenting to a provision of the partnership

1 agreement which permits the partnership agreement to be
2 amended with the consent of fewer than all the partners.

3 15911.11. (a) A conversion or merger under this article does
4 not discharge any liability under Sections 1594.04 and 15906.07
5 of a person that was a general partner in or dissociated as a
6 general partner from a converting or constituent limited
7 partnership, but:

8 (1) the provisions of this chapter pertaining to the collection
9 or discharge of the liability continue to apply to the liability;

10 (2) for the purposes of applying those provisions, the
11 converted or surviving organization is deemed to be the
12 converting or constituent limited partnership; and

13 (3) if a person is required to pay any amount under this
14 subdivision:

15 (A) the person has a right of contribution from each other
16 person that was liable as a general partner under Section
17 15904.04 when the obligation was incurred and has not been
18 released from the obligation under Section 15906.07; and

19 (B) the contribution due from each of those persons is in
20 proportion to the right to receive distributions in the capacity of
21 general partner in effect for each of those persons when the
22 obligation was incurred.

23 (b) In addition to any other liability provided by law:

24 (1) a person that immediately before a conversion or merger
25 became effective was a general partner in a converting or
26 constituent limited partnership that was not a limited liability
27 limited partnership is personally liable for each obligation of the
28 converted or surviving organization arising from a transaction
29 with a third party after the conversion or merger becomes
30 effective, if, at the time the third party enters into the transaction,
31 the third party:

32 (A) does not have notice of the conversion or merger; and

33 (B) reasonably believes that:

34 (i) the converted or surviving business is the converting or
35 constituent limited partnership;

36 (ii) the converting or constituent limited partnership is not a
37 limited liability limited partnership; and

38 (iii) the person is a general partner in the converting or
39 constituent limited partnership; and

(2) a person that was dissociated as a general partner from a converting or constituent limited partnership before the conversion or merger became effective is personally liable for each obligation of the converted or surviving organization arising from a transaction with a third party after the conversion or merger becomes effective, if:

(A) immediately before the conversion or merger became effective the converting or surviving limited partnership was a not a limited liability limited partnership; and

(B) at the time the third party enters into the transaction less than two years have passed since the person dissociated as a general partner and the third party:

(i) does not have notice of the dissociation;

(ii) does not have notice of the conversion or merger; and

(iii) reasonably believes that the converted or surviving organization is the converting or constituent limited partnership, the converting or constituent limited partnership is not a limited liability limited partnership, and the person is a general partner in the converting or constituent limited partnership.

15911.12. (a) An act of a person that immediately before a conversion or merger became effective was a general partner in a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:

(1) before the conversion or merger became effective, the act would have bound the converting or constituent limited partnership under Section 15904.02; and

(2) at the time the third party enters into the transaction, the third party:

(A) does not have notice of the conversion or merger; and

(B) reasonably believes that the converted or surviving business is the converting or constituent limited partnership and that the person is a general partner in the converting or constituent limited partnership.

(b) An act of a person that before a conversion or merger became effective was dissociated as a general partner from a converting or constituent limited partnership binds the converted or surviving organization after the conversion or merger becomes effective, if:

1 (1) before the conversion or merger became effective, the act
2 would have bound the converting or constituent limited
3 partnership under Section 15904.02 if the person had been a
4 general partner; and

5 (2) at the time the third party enters into the transaction, less
6 than two years have passed since the person dissociated as a
7 general partner and the third party:

8 (A) does not have notice of the dissociation;

9 (B) does not have notice of the conversion or merger; and

10 (C) reasonably believes that the converted or surviving
11 organization is the converting or constituent limited partnership
12 and that the person is a general partner in the converting or
13 constituent limited partnership.

14 (c) If a person having knowledge of the conversion or merger
15 causes a converted or surviving organization to incur an
16 obligation under subdivision (a) or (b), the person is liable:

17 (1) to the converted or surviving organization for any damage
18 caused to the organization arising from the obligation; and

19 (2) if another person is liable for the obligation, to that other
20 person for any damage caused to that other person arising from
21 the liability.

22 15911.13. This article does not preclude an entity from being
23 converted or merged under other law.

24 25 Article 11.5 Dissenting Limited Partners' Rights

26
27 15911.14. (a) For purposes of this article, "reorganization"
28 refers to any of the following:

29 (1) A conversion pursuant to Article 11 (commencing with
30 Section 15911.01).

31 (2) A merger pursuant to Article 11 (commencing with
32 Section 15911.01).

33 (3) The acquisition by one limited partnership in exchange, in
34 whole or in part, for its partnership interests (or the partnership
35 interests or equity securities of a partnership or other business
36 entity that is in control of the acquiring limited partnership) of
37 partnership interests or equity securities of another limited
38 partnership or other business entity if, immediately after the
39 acquisition, the acquiring limited partnership has control of the
40 other limited partnership or other business entity.

(4) The acquisition by one limited partnership in exchange in whole or in part for its partnership interests (or the partnership interests or equity securities of a partnership or other business entity which is in control of the acquiring limited partnership) or for its debts securities (or debt securities of a limited partnership or other business entity which is in control of the acquiring limited partnership) which are not adequately secured and which have a maturity date in excess of five years after the consummation of the acquisition, or both, of all or substantially all of the assets of another limited partnership or other business entity.

(b) For purposes of this article, “control” means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a limited partnership or other business entity.

15911.15. (a) If the approval of outstanding limited partnership interests is required for a limited partnership to participate in a reorganization, pursuant to the limited partnership agreement of the partnership, or otherwise, then each limited partner of the limited partnership holding those interests may, by complying with this article, require the limited partnership to purchase for cash, at its fair market value, the interest owned by the limited partner in the limited partnership, if the interest is a dissenting interest as defined in subdivision (b). The fair market value shall be determined as of the day before the first announcement of the terms of the proposed reorganization, excluding any appreciation or depreciation in consequence of the proposed reorganization.

(b) As used in this article, “dissenting interest” means the interest of a limited partner that satisfies all of the following conditions:

(1) Either:

(A) Was not, immediately prior to the reorganization, either (i) listed on any national securities exchange certified by the Commissioner of Corporations under subdivision (o) of Section 25100, or (ii) listed on the list of OTC margin stocks issued by the Board of Governors of the Federal Reserve System, provided that in either such instance the limited partnership whose outstanding interests are so listed provides, in its notice to limited partners requesting their approval of the proposed reorganization,

1 a summary of the provisions of this section and Sections
2 15911.16, 15911.17, 15911.18, and 15911.19; or

3 (B) If the interest is of a class of interests listed as described in
4 clause (i) or (ii) of subparagraph (A), demands for payment are
5 filed with respect to 5 percent or more of the outstanding
6 interests of that class.

7 (2) Was outstanding on the date for the determination of
8 limited partners entitled to vote on the reorganization.

9 (3) (i) Was not voted in favor of the reorganization, or (ii) if
10 the interest is described in clause (i) or (ii) of subparagraph (A)
11 of paragraph (1), was voted against the reorganization; provided,
12 however, that clause (i) rather than clause (ii) of this paragraph
13 applies in any event where the approval for the proposed
14 reorganization is sought by written consent rather than at a
15 meeting.

16 (4) The limited partner has demanded that it be purchased by
17 the limited partnership at its fair market value in accordance with
18 Section 15911.16.

19 (5) The limited partner has submitted it for endorsement, if
20 applicable, in accordance with Section 15911.17.

21 (c) As used in this article, “dissenting limited partner” means
22 the record holder of a dissenting interest, and includes an
23 assignee of record of such an interest.

24 15911.16. (a) If limited partners have a right under Section
25 15911.15, subject to compliance with paragraphs (4) and (5) of
26 subdivision (b) thereof, to require the limited partnership to
27 purchase their limited partnership interests for cash, such limited
28 partnership shall mail to each such limited partner a notice of the
29 approval of the reorganization by the requisite vote or consent of
30 the limited partners, within 10 days after the date of such
31 approval, accompanied by a copy of this section and Sections
32 15911.15, 15911.17, 15911.18, and 15911.19, a statement of the
33 price determined by the limited partnership to represent the fair
34 market value of its outstanding interests, and a brief description
35 of the procedure to be followed if the limited partner desires to
36 exercise the limited partner’s rights under such sections. The
37 statement of price constitutes an offer by the limited partnership
38 to purchase at the price stated any dissenting interests as defined
39 in subdivision (b) of Section 15911.15, unless they lose their
40 status as dissenting interests under Section 15911.24.

1 (b) Any limited partner who has a right to require the limited
2 partnership to purchase the limited partner's interest for cash
3 under Section 15911.15, subject to compliance with paragraphs
4 (4) and (5) of subdivision (b) thereof, and who desires the limited
5 partnership to purchase such interest, shall make written demand
6 upon the limited partnership for the purchase of such interest and
7 the payment to the limited partner in cash of its fair market value.
8 The demand is not effective for any purpose unless it is received
9 by the limited partnership or any transfer agent thereof (1) in the
10 case of interests described in clause (i) or (ii) of subparagraph
11 (A) of paragraph (1) of subdivision (b) of Section 15911.15, not
12 later than the date of the limited partners' meeting to vote upon
13 the reorganization, or (2) in any other case, within 30 days after
14 the date on which notice of the approval of the reorganization by
15 the requisite vote or consent of the limited partners is mailed by
16 the limited partnership to the limited partners.

17 (c) The demand shall state the number or amount of the
18 limited partner's interest in the limited partnership and shall
19 contain a statement of what such limited partner claims to be the
20 fair market value of that interest on the day before the
21 announcement of the proposed reorganization. The statement of
22 fair market value constitutes an offer by the limited partner to sell
23 the interest at such price.

24 15911.17. Within 30 days after the date on which notice of
25 the approval of the outstanding interests of the limited
26 partnership is mailed to the limited partner pursuant to
27 subdivision (a) of Section 15911.16, the limited partner shall
28 submit to the limited partnership at its principal office or at the
29 office of any transfer agent thereof, (a) if the interest is evidenced
30 by a certificate, the limited partner's certificate representing the
31 interest which the limited partner demands that the limited
32 partnership purchase, to be stamped or endorsed with a statement
33 that the interest is a dissenting interest or to be exchanged for
34 certificates of appropriate denominations so stamped or
35 endorsed, or (b) if the interest is not evidenced by a certificate,
36 written notice of the number or amount of interest which the
37 limited partner demands that the limited partnership purchase.
38 Upon subsequent transfers of the dissenting interest on the books
39 of the limited partnership, the new certificates or other written

1 statement issued therefor shall bear a like statement, together
2 with the name of the original holder of the dissenting interest.

3 15911.18. (a) If the limited partnership and the dissenting
4 limited partner agree that such limited partner's interest is a
5 dissenting interest and agree upon the price to be paid for the
6 dissenting interest, the dissenting limited partner is entitled to the
7 agreed price with interest thereon at the legal rate on judgments
8 from the date of consummation of the reorganization. All
9 agreements fixing the fair market value of any dissenting limited
10 partner's interest as between the limited partnership and such
11 limited partner shall be in writing and filed in the records of the
12 limited partnership.

13 (b) Subject to the provisions of Section 15911.21, payment of
14 the fair market value for a dissenting interest shall be made
15 within 30 days after the amount thereof has been agreed or within
16 30 days after any statutory or contractual conditions to the
17 reorganization are satisfied, whichever is later, and in the case of
18 dissenting interests evidenced by certificates of interest, subject
19 to surrender of such certificates of interest, unless provided
20 otherwise by agreement.

21 15911.19. (a) If the limited partnership denies that a limited
22 partnership interest is a dissenting interest, or the limited
23 partnership and a dissenting limited partner fail to agree upon the
24 fair market value of a dissenting interest, then such limited
25 partner or any interested limited partnership, within six months
26 after the date on which notice of the approval of the
27 reorganization by the requisite vote or consent of the limited
28 partners was mailed to the limited partner, but not thereafter, may
29 file a complaint in the superior court of the proper county praying
30 the court to determine whether the interest is a dissenting interest,
31 or the fair market value of the dissenting interest, or both, or may
32 intervene in any action pending on such a complaint.

33 (b) Two or more dissenting limited partners may join as
34 plaintiffs or be joined as defendants in any such action and two
35 or more such actions may be consolidated.

36 (c) On the trial of the action, the court shall determine the
37 issues. If the status of the limited partnership interest as a
38 dissenting interest is in issue, the court shall first determine that
39 issue. If the fair market value of the dissenting interest is in issue,
40 the court shall determine, or shall appoint one or more impartial

1 appraisers to determine, the fair market value of the dissenting
2 interest.

3 15911.20. (a) If the court appoints an appraiser or appraisers,
4 they shall proceed forthwith to determine the fair market value
5 per interest of the outstanding limited partnership interests of the
6 limited partnership, by class if necessary. Within the time fixed
7 by the court, the appraisers, or a majority of them, shall make and
8 file a report in the office of the clerk of the court. Thereupon, on
9 the motion of any party, the report shall be submitted to the court
10 and considered on such additional evidence as the court considers
11 relevant. If the court finds the report reasonable, the court may
12 confirm it.

13 (b) If a majority of the appraisers appointed fails to make and
14 file a report within 30 days from the date of their appointment, or
15 within such further time as may be allowed by the court, or the
16 report is not confirmed by the court, the court shall determine the
17 fair market value per interest of the outstanding limited
18 partnership interests of the limited partnership, by class if
19 necessary.

20 (c) Subject to Section 15911.21, judgment shall be rendered
21 against the limited partnership for payment of an amount equal to
22 the fair market value, as determined by the court, of each
23 dissenting interest which any dissenting limited partner who is a
24 party, or has intervened, is entitled to require the limited
25 partnership to purchase, with interest thereon at the legal rate on
26 judgments from the date of consummation of the reorganization.

27 (d) Any such judgment shall be payable forthwith, provided,
28 however, that with respect to limited partnership interests
29 evidenced by transferable certificates of interest, only upon the
30 endorsement and delivery to the limited partnership of those
31 certificates representing the interests described in the judgment.
32 Any party may appeal from the judgment.

33 (e) The costs of the action, including reasonable compensation
34 for the appraisers, to be fixed by the court, shall be assessed or
35 apportioned as the court considers equitable, but, if the appraisal
36 exceeds the price offered by the limited partnership, the limited
37 partnership shall pay the costs (including, in the discretion of the
38 court, if the value awarded by the court for the dissenting interest
39 is more than 125 percent of the price offered by the limited

1 partnership under subdivision (a) of Section 15912.03, attorneys'
2 fees and fees of expert witnesses).

3 15911.21. To the extent that the payment to dissenting limited
4 partners of the fair market value of their dissenting interests
5 would require the dissenting limited partners to return such
6 payment or a portion thereof by reason of Section 15905.09 or
7 the Uniform Fraudulent Transfer Act (Chapter 1 (commencing
8 with Section 3439) of Title 2 of Part 2 of Division 4 of the Civil
9 Code), then that payment or portion thereof shall not be made
10 and the dissenting limited partners shall become creditors of the
11 limited partnership for the amount not paid, together with interest
12 thereon at the legal rate on judgments until the date of payment,
13 but subordinate to all other creditors in any proceeding relating to
14 the winding up and dissolution of the limited partnership, such
15 debt to be payable when permissible.

16 15911.22. Any cash distributions made by a limited
17 partnership to a dissenting limited partner after the date of
18 consummation of the reorganization, but prior to any payment by
19 the limited partnership for such dissenting limited partner's
20 interest, shall be credited against the total amount to be paid by
21 the limited partnership for such dissenting interest.

22 15911.23. Except as expressly limited by this article,
23 dissenting limited partners shall continue to have all the rights
24 and privileges incident to their interests immediately prior to the
25 reorganization, including limited liability, until payment by the
26 limited partnership for their dissenting interests. A dissenting
27 limited partner may not withdraw a demand for payment unless
28 the limited partnership consents thereto.

29 15911.24. A dissenting interest loses its status as a dissenting
30 interest and the holder thereof ceases to be a dissenting limited
31 partner and ceases to be entitled to require the limited partnership
32 to purchase the interest upon the happening of any of the
33 following:

34 (a) The limited partnership abandons the reorganization. Upon
35 abandonment of the reorganization, the limited partnership shall
36 pay, on demand, to any dissenting limited partner who has
37 initiated proceeding in good faith under this article, all
38 reasonable expenses incurred in such proceedings and reasonable
39 attorneys' fees.

1 (b) The interest is transferred prior to its submission for
2 endorsement in accordance with Section 15911.17.

3 (c) The dissenting limited partner and the limited partnership
4 do not agree upon the status of the interest as a dissenting interest
5 or upon the purchase price of the dissenting interest, and neither
6 files a complaint nor intervenes in a pending action, as provided
7 in Section 15911.19, within six months after the date upon which
8 notice of the approval of the reorganization by the requisite vote
9 or consent of limited partners was mailed to the limited partner.

10 (d) The dissenting limited partner, with the consent of the
11 limited partnership, withdraws such limited partner's demand for
12 purchase of the dissenting interest.

13 15911.25. If litigation is instituted to test the sufficient or
14 regularity of the vote or consent of the limited partners in
15 authorizing a reorganization, any proceedings under Sections
16 15911.19 and 15911.20 shall be suspended until final
17 determination of that litigation.

18 15911.26. (a) This article applies to the following:

19 (1) A domestic limited partnership formed on or after January
20 1, 1991.

21 (2) A foreign limited partnership if (A) the foreign limited
22 partnership was formed on or after January 1, 1991 or filed an
23 application to qualify to do business on or after January 1, 1991,
24 and (B) limited partners holding more than 50 percent of the
25 voting power held by all limited partners of the foreign limited
26 partnership reside in this state.

27 (3) A limited partnership if the partnership agreement so
28 provides or if all general partners and a majority in interest of the
29 limited partners determine that this article shall apply.

30 (b) This article does not apply to limited partnership interests
31 governed by limited partnership agreements whose terms and
32 provisions specifically set forth the amount to be paid in respect
33 of such interests in the event of a reorganization of the limited
34 partnership, or to limited partnerships with 35 or fewer limited
35 partners, unless the partnership agreement provides that this
36 article shall apply or unless all general partners and a majority in
37 interest of the limited partners agree that this article shall apply.

38 15911.27. (a) No limited partner of a limited partnership who
39 has a right under this article to demand payment of cash for the
40 interest owned by such limited partner in a limited partnership

1 shall have any right at law or in equity to attack the validity of
2 the reorganization, or to have the reorganization set aside or
3 rescinded, except in an action to test whether the vote or consent
4 of limited partners required to authorize or approve the
5 reorganization has been obtained in accordance with the
6 procedures established therefor by the partnership agreement of
7 the limited partnership.

8 (b) If one of the parties to a reorganization is directly or
9 indirectly controlled by, or under common control with, another
10 party to the reorganization, subdivision (a) shall not apply to any
11 limited partner of such controlled party who has not demanded
12 payment of cash for such limited partner's interest pursuant to
13 this article; but if such limited partner institutes any action to
14 attack the validity of the reorganization or to have the
15 reorganization set aside or rescinded, the limited partner shall not
16 thereafter have any right to demand payment of cash for such
17 limited partner's interest pursuant to this article.

18 (c) If one of the parties to a reorganization is directly or
19 indirectly controlled by, or under common control with, another
20 party to the reorganization, then, in any action to attack the
21 validity of the reorganization or to have the reorganization set
22 aside or rescinded, (1) a party to a reorganization which controls
23 another party to a reorganization shall have the burden of proving
24 that the transaction is just and reasonable as to the limited
25 partners of the controlled party, and (2) a person who controls
26 two or more parties to a reorganization shall have the burden of
27 proving that the transaction is just and reasonable as to the
28 limited partners of any party so controlled.

29 (d) Subdivisions (b) and (c) shall not apply if a majority in
30 interest of the limited partners other than limited partners who
31 are directly or indirectly controlled by, or under common control
32 with, another party to the reorganization approve or consent to
33 the reorganization.

34 (e) This section shall not prevent a partner of a limited
35 partnership that is a party to a reorganization from bringing an
36 action against a general partner of the limited partnership, the
37 limited partnership, or any person controlling a general partner at
38 law or in equity as to any matters (including, without limitation,
39 an action for breach of fiduciary obligation or fraud) other than to

1 attack the validity of the reorganization or to have the
2 reorganization set aside or rescinded.

3
4 Article 12. Miscellaneous Provisions
5

6 15912.01. In applying and construing this chapter,
7 consideration must be given to the need to promote uniformity of
8 the law with respect to its subject matter among states that enact
9 it.

10 15912.02. If any provision of this chapter or its application to
11 any person or circumstance is held invalid, the invalidity does not
12 affect other provisions or applications of this chapter which can
13 be given effect without the invalid provision or application, and
14 to this end, the provisions of this chapter are severable.

15 15912.03. This chapter modifies, limits, or supersedes the
16 federal Electronic Signatures in Global and National Commerce
17 Act, 15 U.S.C. Section 7001 et seq., but this chapter does not
18 modify, limit, or supersede Section 101(c) of that Act or
19 authorize electronic delivery of any of the notices described in
20 Section 103(b) of that Act.

21 15912.04. This chapter shall become operative on January 1,
22 2006.

23 15912.06. (a) Before January 1, 2008, this chapter governs
24 only:

25 (1) a limited partnership formed on or after January 1, 2006;
26 and

27 (2) except as otherwise provided in subdivisions (c) and (d), a
28 limited partnership formed before January 1, 2006, which elects,
29 in the manner provided in its partnership agreement or by law for
30 amending the partnership agreement, to be subject to this chapter.

31 (b) Except as otherwise provided in subdivision (c), on and
32 after January 1, 2008, this chapter governs all limited
33 partnerships.

34 (c) With respect to a limited partnership formed before
35 January 1, 2006, the following rules apply except as the partners
36 otherwise elect in the manner provided in the partnership
37 agreement or by law for amending the partnership agreement:

38 (1) Section 15901.04(c) does not apply and the limited
39 partnership has whatever duration it had under the law applicable
40 immediately before January 1, 2006.

1 (2) the limited partnership is not required to amend its
2 certificate of limited partnership to comply with paragraph (4) of
3 subdivision (a) of Section 15902.01.

4 (3) Sections 15906.01 and 15906.02 do not apply and a limited
5 partner has the same right and power to dissociate from the
6 limited partnership, with the same consequences, as existed
7 immediately before January 1, 2006.

8 (4) Subdivision (d) of Section 15906.03 does not apply.

9 (5) Subdivision (e) of Section 15906.03 does not apply and a
10 court has the same power to expel a general partner as the court
11 had immediately before January 1, 2006.

12 (6) Subdivision (c) of Section 15908.01 does not apply and the
13 connection between a person's dissociation as a general partner
14 and the dissolution of the limited partnership is the same as
15 existed immediately before January 1, 2006.

16 (d) With respect to a limited partnership that elects pursuant to
17 paragraph (2) of subdivision (a) to be subject to this chapter, after
18 the election takes effect the provisions of this chapter relating to
19 the liability of the limited partnership's general partners to third
20 parties apply:

21 (1) before January 1, 2008, to:

22 (A) a third party that had not done business with the limited
23 partnership in the year before the election took effect; and

24 (B) a third party that had done business with the limited
25 partnership in the year before the election took effect only if the
26 third party knows or has received a notification of the election;
27 and

28 (2) on and after January 1, 2008, to all third parties, but those
29 provisions remain inapplicable to any obligation incurred while
30 those provisions were inapplicable under subparagraph (B) of
31 paragraph (1).

32 15912.07. This chapter does not affect an action commenced,
33 proceeding brought, or right accrued before this chapter becomes
34 operative.